

T2-fr

4506

FAIRSTEIN - REBUTTAL - CROSS - BURNS

1
2 Q Did you then tell her that you wanted to
3 speak to her?

4 A I told her I would answer questions that
5 she had. I didn't say I wanted to speak to her.

6 Q And did that conversation take place in the
7 lobby?

8 A The conversation with -- that we just
9 described.

10 Q Yes.

11 A Yes, in this large lobby area.

12 Q And were you alone at that point or were
13 there any other police people with you?

14 A I think I was alone. Much of that time
15 Captain Rowe and Sergeant Clebe were back and forth
16 around me, and I have no specific recollection if
17 they were literally by my side and able to hear that
18 conversation. They were in the area, but I don't
19 have any recollection of them being there at that
20 moment.

21 Q Was Detective Taglioni in the lobby at any
22 time during that conversation?

23 A No, he was not.

24 Q Do you know where Detective Taglioni was at
25 that time?

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1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 MS. LEDERER: Objection.

3 A I believe I do.

4 THE COURT: I'll let her answer.

5 A To my knowledge he was then on the third
6 floor of the precinct.

7 Q And did she have some questions for you at
8 that time?

9 MS. LEDERER: Objection as to what
10 time.

11 MR. BURNS: We're talking about the
12 first conversation that she had with Mrs.
13 Salaam.

14 THE COURT: Yes, I understand. Do you
15 understand the question?

16 THE WITNESS: Yes.

17 THE COURT: Answer it.

18 THE WITNESS: Well, at that time --

19 Q No, no, it's a yes or no.

20 THE COURT: Did you have --

21 THE WITNESS: I can't answer it that
22 way.

23 THE COURT: She can't answer the
24 question.

25 Do you have another one?

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

Q Was there a conversation at that time between you and Mrs. Salaam?

A Yes.

Q Did you ask her any questions at the time?

A No.

Q Did she ask you any questions at the time?

A No.

Q Did David ask you any questions at that time?

A No, he did not.

Q Did either the female who was present and the male who was present, did they say anything in your presence?

A Neither one of them spoke to me at all that evening.

Q Can you describe the appearance of that male and female?

A The female was a black woman who appeared to be the same approximate age as Mrs. Salaam. I don't know that I would have recognized her again. The gentleman was distinguished looking, well-dressed man, who appeared to be significantly older than both of the women. That is as much as I --

Q Can you describe his complexion?

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

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Can you describe whether he had a mustache?

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Can you describe the color of his hair?

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A I would say he had medium complexion, but I thought there was some gray in his hair and I would be guessing if -- well, I thought he had a mustache, and I remember him being tall, and the woman were tall, but I wouldn't -- I doubt I'd be able to pick out the man or woman if I saw them again. I would recognize Mrs. Salaam and I have seen her since.

11

12

Q And you didn't say anything to those people?

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A No.

Q You didn't ask them directly who they were?

A No. I said to Mrs. --

Q Is that correct?

A That's right.

Q And was that the end of that first conversation that you had with Mrs. Salaam?

A We never established what the conversation was. You asked if I asked questions. No. Did she ask questions. No. I said to her, if you want to know, I would be happy to answer her questions, and talk to her, but I would just like to do it with the immediate family members and would she tell me who

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

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2 was present with her. She said, "No," she had to
3 talk to Mr. Nocente and the group left. That was
4 the extent of the first conversation with her.

5 Q And Mr. Nocente was present at that time?

6 A Yes.

7 Q And then the group left your presence at
8 that time?

9 A Yes, and actually walked out the front
10 vestibule door of the precinct.

11 Q And what time would that be?

12 A It would be around midnight because -- I
13 can place it only by what happened immediately after
14 to me.

15 Q And the next conversation that you had with
16 either David Nocente or Mrs. Salaam occurred how
17 long thereafter?

18 A No sooner than ten minutes thereafter, ten
19 to fifteen. I was involved with Miss Lederer with
20 the videomen and the detectives in the intervening
21 10 to 15 minutes.

22 Q Now, how do you fix the time that the
23 videoman and Miss Lederer came down?

24 A They -- the youth room was being used
25 during the course of the evening, probably from the

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1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 time I arrived at the precinct, after 8:30,
3 throughout these conversations with Mr. Nocente and
4 Mrs. Salaam. I had been in it and had seen
5 Detective Sheehan and Detective Jonza were in it
6 with Mr. Santana and his father in the period after
7 ten. I know that Detective Sheehan's interview with
8 Mr. Santana ended approximately midnight. At that
9 point they left that room.

10 Q How do you know that?

11 A I know it a number of ways. I've seen the
12 written piece of paper that has Sheehan's signature,
13 and the time it ended, for one thing.

14 Q So your frame of reference is a notation
15 that you looked at that's contained on Sheehan's
16 notes?

17 A That is the most specific way of placing it
18 of ending at that time. I had a recollection it was
19 around midnight, and at one point I saw his notes.

20 Q And did you speak to -- which conversation
21 came -- withdrawn.

22 The conversation you had with David and
23 Mrs. Salaam, were they together during that
24 conversation or did you see them separately?

25 A The conversation I just described which was

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1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 my introduction to Mrs. Salaam was when David was
3 present and said, "This is Yusaf's mother. This is
4 Mrs. Salaam." That preceded the end of Mr.
5 Santana's statement.

6 Q I understand that. What I'm asking,
7 whether the third conversation you had with David,
8 did that occur at the same time you were having the
9 second conversation with Mrs. Salaam?

10 A No. Well, Mrs. Salaam re-entered the
11 stationhouse with her female companion and we went
12 in the room to sit down. It was the two women --
13 I'm sorry, and the gentlemen. It was the three of
14 them. Nocente did not come in with them.

15 Q Had you told David Nocente to leave the
16 precinct?

17 A I told -- I asked him to wait in the lobby
18 of the precinct where other family members were
19 coming, but to wait outside.

20 Q That's outside, get out of the precinct, I
21 mean -- I'm not suggesting --

22 MS. LEDERER: Objection.

23 THE COURT: No, just a minute. Wait a
24 second.

25 When you told him to go outside, were

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1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 you talking about the street?

3 THE WITNESS: There was an area in the
4 vestibule and there's an area right outside
5 the precinct where a number of people had
6 gathered to wait, and I asked him while I
7 was talking to other family members, to
8 wait outside the precinct. I did not say
9 get out of the precinct.

10 THE COURT: Is that the street you're
11 talking about?

12 THE WITNESS: The vestibule area or
13 the sidewalk area, yes.

14 THE COURT: Well, the vestibule is in
15 the precinct.

16 THE WITNESS: Yes. And he was in
17 there for a period of time.

18 THE COURT: You asked him to leave?

19 THE WITNESS: No, to get out of
20 earshot.

21 THE COURT: In other words, when you
22 said, "Get out," you were not talking about
23 getting out of the precinct, you say, you
24 were talking about getting out of earshot?

25 THE WITNESS: Correct.

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1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 Q Didn't you tell him to get out of the
3 lobby?

4 A Out of the area where the detectives -- he
5 was coming over to where detectives and I were
6 discussing what was going on. I asked him if he
7 would step outside this area so we can conduct our
8 business.

9 Q Indicating you're pointing your hand. With
10 your hand pointed towards the door?

11 A I'm doing it now because, as you can see, I
12 talk with my hands. I wasn't pointing to the door
13 that night, Mr. Burns. I'm sure I probably told him
14 to go outside the door. I told him to wait
15 somewhere where he was out of earshot of our
16 business. He was in the vestibule for a significant
17 period of time.

18 Q You told him to step away, to get outside
19 from where you were, isn't that true?

20 MS. LEDERER: Objection.

21 THE COURT: I'll allow it.

22 It's not literally true in the words you
23

24 went outside in response --

25 he that. I didn't say go

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outside.

Q Did you ever go outside to where he was and tell him, Gee, I didn't mean for you to go all the way out, just out of earshot?

A No, I didn't do that.

MS. LEDERER: Objection.

Q When did you have the third conversation, and using as a point of reference the point where you told him to go.

A I can't use that as a point of reference. My third conversation simply was moments before Mrs. Salaam, at 12:30, the note I made, asking for a lawyer, within three minutes preceding that is when I spoken to Mr. Nocente.

Q Where did that conversation take place?

A In the lobby of the precinct.

Q And that is after you had sent a detective to bring him back inside; isn't that correct?

A To ask him, come and talk to me, yes.

Q Isn't that so?

A Yes, it is.

Q And you say two or three minutes after that conversation, that's when you had the second conversation with Mrs. Salaam?

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4516

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 A No, no.

3 Q When did you have the second conversation
4 with Mrs. Salaam?

5 A The second conversation with Mrs. Salaam
6 followed the period that I think was between 12:05
7 and 12:15, when Miss Lederer and I were discussing
8 with the detectives and the supervisors where to
9 start the videotape procedures. That conversation,
10 with the two of us participating, lasted five to ten
11 minutes, making plans where and what we would do.
12 After that was over, Miss Lederer went upstairs. It
13 was about 12:15 and I was alone in the lobby and
14 Mrs. Salaam came back alone -- I'm sorry, Mrs.
15 Salaam came into the stationhouse with her female
16 companion, and the gentleman.

17 Q Didn't you have a conversation with David
18 Nocente where you told David Nocente that Mrs.
19 Salaam would be permitted to see her son?

20 A I told him that at some point. I certainly
21 told him that as I told her when the questioning was
22 finished, she would be permitted to see her son.

23 Q Well, what time was it when you first told
24 David Nocente that Mrs. Salaam would be permitted to
25 see her son?

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

A I can't answer that.

Q Was it -- it was after 12?

A I just said I can't answer.

Q Was it before 12:30?

MS. LEDERER: Objection.

THE COURT: Sustained.

She can't answer as to time, I suppose that includes all time.

Q Does it include all time?

A I can't tell you when I said it.

Q You remember whether you told him more than once?

A I don't recall telling him more than once.

Q Did there come a time when Mrs. Salaam saw her son?

A I am informed of that. I was not present when that happened.

Q Was that after you had left, you and Miss Lederer had left to go to the 24th?

MS. LEDERER: Objection.

THE COURT: I'll allow it.

A It was -- well, I can't answer it. I don't know whether it happened just before -- I mean it was in that period between 12:30 and one, I am told.

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FAIRSTEIN - REBUTTAL - CROSS - BURNS 4518

I don't know whether they were physically in the precinct or not. I did not see it happen.

Q Then there came a time, you say, when one of the conversations took place inside a room?

A Yes.

Q How long did that conversation last?

A Very few minutes, maybe three.

Q And, did that take place prior to the conversation that you had with Miss Salaam where Miss Salaam said she was getting a lawyer?

A Yes, the conversation she was getting a lawyer was the last thing she said and the only note I wrote that night, "12:30 she was going to get a lawyer."

Q Do you have that note?

A I believe Miss Lederer does.

Q Do you remember what you wrote that note on?

A Other than it was a piece of paper, I don't remember.

Q What time did you have the conversation, that two minutes, three minute conversation in the room?

A I believe that it was about 12:15. That's the best I can place it.

Q And that's when she told you that he was 15 years old.

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

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A Yes.

Q And immediately upon hearing that he was 15 years old, you left the room?

A Immediately, no, in the sense that I asked her -- we finished that conversation where --

Q Do you have proof, et cetera?

A Yes.

Q She said no, she didn't have any proof --

A But she could supply it. It's home.

Q And you left the room?

A Yes.

Q And when you left the room, where did you go?

A I went out to get Sergeant Clebe, Captain Rowe, and say, send someone please to go get those detectives.

Q Were they in the lobby at that time?

A They were either in the lobby or in that video room, but they were on the first floor.

Q And when you went out of that room, did you leave Mrs. Salaam and her cousin in that room?

A Yes, they were there when I left.

Q And there came a time when they left the room, isn't that true?

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

1 A I believe so.

2 Q And when they left the room, didn't Miss
3 Salaam ask you for some water?
4

5 A She asked me for water? No.

6 Q Asked you where she could get some water,
7 any water, water?

8 A No.

9 Q Did you hear her ask anyone, police person,
10 someone who's associated with law enforcement,
11 anything about water?

12 A No, but I walked out of the room. There
13 were police people at the desk --

14 Q I'm not talking about that.

15 THE COURT: The question is, did you
16 ever hear it?

17 THE WITNESS: I never heard her ask
18 anybody about water.

19 Q Did you ever hear her say anything about
20 being thirsty?

21 A No.

22 Q And do you deny telling her that the water
23 in the precinct was not drinkable?

24 MS. LEDERER: Objection.

25 THE COURT: Objection sustained.

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4521

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 Did you ever tell her that?

3 THE WITNESS: No. I don't even know

4 --

5 THE COURT: The answer is no?

6 THE WITNESS: No.

7 Q Did anyone -- did you hear anyone tell her
8 that in your presence?

9 A I never heard that subject discussed the
10 entire time I was there.

11 Q Did you see her go to the desk?

12 A No.

13 Q At any time that evening?

14 A No.

15 Q Now, after speaking to her in the room,
16 when she was present with the cousins, when is your
17 next -- next recollection that you have of seeing
18 Mrs. Salaam?

19 A Could not have been more than three minutes
20 later because I told the Captain I wanted the
21 detectives down here immediately and the detectives,
22 Taglioni and Hall came down immediately and had the
23 conversation with Mrs. Salaam then.

24 Q Did that conversation take place in the
25 room?

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4522

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 A I think it was right outside the room.

3 Q Outside of the room?

4 A I believe so. It was in the doorway, I
5 think, on the outside part of the room.

6 Q When you went into the room, you were
7 seated, everyone was seated, weren't you?

8 A When we first went into the room, yes, we
9 sat down.

10 Q And would it also be fair to say that all
11 the other conversations took place while you were
12 standing?

13 A Yes.

14 Q So this last conversation you say that when
15 Taglioni came down, that took place while everyone
16 was standing?

17 A Yes.

18 Q Now, it was during the conversation when
19 Taglioni came down, when the transportation pass was
20 mentioned?

21 A Yes.

22 Q And then Taglioni said that Yusaf had it;
23 is that right?

24 A I believe so.

25 Q Did Taglioni bring the pass down with him

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4523

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 or did he just simply make reference to it?

3 A My recollection is he made reference to it
4 at that time. I don't recall seeing it.5 Q And was there any conversation relative to
6 whether Yusaf had any other papers on him?7 A That was my information, that was the only
8 identification, only piece of paper he had on him
9 and there was no conversation about other
10 identification.11 Q Now, when you say that was the only
12 information you had, was that information supplied
13 by Taglioni?

14 A At that point, yes. And Hall.

15 Q And they told you that the only papers that
16 Yusaf had on him --17 A That's not -- they didn't tell me. Mrs.
18 Salaam was saying he was 15. They were saying,
19 "He's got ID. The only ID he got says he's 16.
20 This is what we got to go by. He told us he was
21 sixteen. He told us when we went to get him, he's
22 sixteen, and he's got ID that says he's sixteen."
23 And she was saying, "He's fifteen."24 Q And then you said that "He's 15," and for
25 them not to question him anymore?

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4524

FAIRSTEIN - REBUTTAL - CROSS - BURNS

A You want to know what I said to them exactly?

Q Well, in words or substance.

A Yes.

Q Is that what happened?

A I stepped aside with them, and I said, "Everybody has been so careful about everything that has been done."

Q You said this to them?

A Yes.

"That every other kid under 16 had parents with them, or in fact, had not been picked up, if there were no parent at home, and they were less than 16 because there was enough to do" --

Q I don't mean to cut you off, but is this the conversation --

A This is the substance of the conversation. I said, "Let's take her word for it. Let's assume he's 15, let's cut this off now. Stop it immediately. Go upstairs."

THE COURT: Will lunch help, Mr. Burns?

MR. BURNS: Always does.

THE COURT: We will recess for lunch.

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1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 2:15.

3 (Luncheon recess taken.)

4 * * *

5 A F T E R N O O N S E S S I O N

6 COURT CLERK: Hearings continued.

7 People of the State of New York versus
8 Kharey Wise, Yusaf Salaam, Antron McCray,
9 Kevin Richardson, Steven Lopez, Michael
10 Brisco, Raymond Santana, Indictment 4762 of
11 '89.

12 Miss Fairstein, may I remind you you
13 are still under oath?

14 THE WITNESS: Yes, thank you.

15 BY MR. BURNS:

16 Q Miss Fairstein, it was during this first
17 conversation that you had with David Nocente where
18 you had accused him of acting in an unprofessional
19 manner?

20 A Yes.

21 Q And that he had violated ethics by being
22 there; is that right?

23 A Yes, that's right.

24 Q And that's the first conversation where you
25 threatened to call his boss; is that right?

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NYCLD_015372

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4526

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 A I told him I wanted to call his boss.

3 Q Well, you asked about, did he have the
4 number for his boss; is that right?

5 A That's right, yes.

6 Q He had told you that he was a friend of the
7 family at that point, right?

8 A Yes.

9 Q And that he never represented himself as
10 being there in his official capacity as an Assistant
11 U.S. attorney or as an ordinary attorney; is that
12 right?

13 A He identified himself as a lawyer,
14 originally, but, no, -- when I asked him, "Are you
15 retained, are you here to represent Yusaf Salaam?"
16 he said, "No, I am not."

17 Q But you knew that he came there on behalf
18 of the family; isn't that true, the Salaam family?

19 A That's what he said.

20 Q And you ordered him out of there; isn't
21 that true?

22 A No. Initially no, he told me he was
23 waiting for Mrs. Salaam. He didn't even tell me in
24 that first conversation whether or not he knew Yusaf
25 Salaam and he was certainly welcome to wait for Mrs.

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

Salaam.

Q At the point where -- you're talking about he acting in an unethical manner, and has no business being there, aren't you really trying to get him out?

MS. LEDERER: Objection.

THE COURT: I'll allow her to answer.

Q Yes or no?

A I told him he had no business participating

--

Q Yes or no?

A No. I did not say he had no business being there.

Q And when you told him that you were going to call his boss or that you asked for the telephone number for his boss, that -- weren't you attempting to intimidate him?

A No, I was -- I told him exactly what I was doing.

Q Well, at the point where you saw the tears well up in his eyes, didn't you realize at that point that you had intimidated him? Yes or no, ma'am?

MS. LEDERER: Objection.

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4528

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 THE COURT: I'll let her answer.

3 A I didn't think I had intimidated him, no.
4 I thought I had, perhaps, made him understand or
5 agree that he had done something improper.

6 Q And at that point you saw the tears in his
7 eyes; is that correct?

8 A Yeah.

9 Q At what point did you tell him to go?

10 A When the detectives approached me to ask
11 questions, unrelated to his presence, but what to
12 do, I told him that he could not be -- he could not
13 be present for that part of the conversation.

14 Q And then he went outside?

15 A Yes. There were many people outside
16 related to other --

17 Q I understand that.

18 A -- related to other defendants.

19 THE COURT: Yes, why don't you just
20 answer the question. It goes much faster,
21 hopefully that way.

22 THE WITNESS: Yes.

23 Q After you told him to go, he went outside;
24 is that correct?

25 A Yes, at some point, yes. He did not turn

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4529

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS
2 and talk out the door.

3 MR. BURNS: I move to strike --

4 THE COURT: Objection sustained,
5 strike the last part of it.

6 Q And when you spoke to him in this manner,
7 and I'm talking about when you spoke to him in terms
8 of accusing him of unethical conduct, was your voice
9 rising, were you speaking in a loud voice?

10 A Not at all.

11 Q Were you speaking so that anyone who was
12 beyond where he was standing could hear you?

13 MS. LEDERER: Objection.

14 THE COURT: Sustained.

15 Q Do you have any awareness of how loud you
16 were talking?

17 A I have a pretty good idea. I'm not a
18 screamer, Mr. Burns.

19 Q If I were to tell you that other witnesses
20 have testified they heard the sound of your voice --

21 MS. LEDERER: Objection.

22 THE COURT: That's not a question. I
23 don't know what the question is. What's
24 the question?

25 Q Would that give you any indication of how

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NYCLD_015376

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T2-fr

4530

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 loud you were talking?

3 MS. LEDERER: Objection.

4 THE COURT: I'll allow it.

5 A No, it would not.

6 Q Well, isn't it true that at the time you
7 had this conversation with David Nocente, it was
8 just you and David together at that point, isn't
9 that true?

10 A We were the only two people immediately
11 next to each other. Captain Rowe and Sergeant Clebe
12 were not more than several feet away, I would
13 imagine.

14 Q Well, what about the woman and the man you
15 had described?

16 A They were outside two sets of double glass
17 doors and I was not screaming.

18 Q And if I were to tell you that they
19 testified that they heard you, would that give you
20 some indication as to how loud you were talking?

21 MS. LEDERER: Objection.

22 THE COURT: Sustained.

23 Q But you were very concerned about the
24 ethics involved in David's presence there; is that
25 correct?

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4531

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 A Yes.

3 Q Who was the first person that told you that
4 Yusaf was a minor?

5 A Yusaf's mother.

6 Q Now, you knew at the time that minors are
7 persons under the age of 21, is that not so?

8 MS. LEDERER: Objection.

9 THE COURT: Well, that's what she said
10 earlier.

11 Q I believe that means you can answer.

12 A I didn't say that's my legal definition of
13 a --

14 THE COURT: You said someone under 21
15 is considered a minor.

16 THE WITNESS: That most people refer to
17 people under 21 as minors.

18 Q Is that your understanding, that people
19 under the age of 21 are minors?

20 MS. LEDERER: Objection.

21 THE COURT: I'll let her answer.

22 A In a general sense -- I don't know how you
23 mean. Legally? I don't know what you mean.

24 Q Persons under the age of 21, are they
25 minors?

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T2-fr

4532

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 THE COURT: Objection sustained.

3 She's already said what she understood
4 that to mean generally.

5 Q Well, does it mean that to you?

6 THE COURT: Sustained.

7 We cannot keep going over and over,
8 and over the same stuff.

9 MR. BURNS: I have not covered that,
10 your Honor.

11 THE COURT: She said it before. All
12 right, let's go.

13 Q And you are aware of the fact that minors,
14 between the age of 18 and 21 are treated differently
15 than minors the age of 16, is that not true?

16 MS. LEDERER: Objection.

17 THE COURT: Sustained.

18 MR. BURNS: May I approach the bench,
19 your Honor?

20 THE COURT: Yes.

21 (Discussion at sidebar between Mr.
22 Burns, Ms. Lederer, and Mr. Clements, off
23 the record.)

24 (The witness, Linda Fairstein, exits
25 the courtroom, and the following occurred:)

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NYCLD_015379

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T2-fr

4533

COLLOQUY

1
2 MR. BURNS: Your Honor, it's my
3 intention to question Miss Fairstein
4 concerning when she first learned that the
5 defendant, Yusaf Salaam was a minor as
6 opposed to when she was first told that he
7 was 15 years of age. The significance of
8 it is this. IS that as a lawyer and as an
9 Assistant District Attorney, and as a
10 person who is part of the investigatory
11 process in this matter, that when she hears
12 that someone is a minor, then it would seem
13 to me that she has a duty to make -- that
14 is if she is interested in seeing that all
15 the rules are followed -- that she has a
16 duty to make inquiry as to just category of
17 minority, just where does this person, does
18 this person who is a minor fit, and it
19 would seem to me I should be permitted to
20 make inquiry concerning this. It goes
21 towards her motivation in connection with
22 what she does, and it is a proper area of
23 impeachment.

24 THE COURT: The fact of the matter is
25 you already made those inquiries. You

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T2-fr

4534

COLLOQUY

asked her and she said she was told he was a minor. She considered that to be someone under 21 years old. You already asked her when she found out he was 15, and she told you.

MR. BURNS: That's her question on direct.

THE COURT: I'm sustaining the questions in this regard. You have an exception. If some benefit flows to you as a result of that ruling, you have that. So let's go onto something else.

Bring her back.

(The witness, Linda Fairstein, resumes the stand.)

CROSS EXAMINATION (Continuing)

BY MR. BURNS:

Q And what time was it when you learned that Yusaf Salaam was a minor?

A By my figuring, it had to be after 12:10 or 12:15 or between 12:10 and 12:20 that evening.

Q But there's no writing from which you can use as a frame of reference to pinpoint it further than that?

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4535

FAIRSTEIN - REBUTTAL - CROSS - BURNS

A The only writing that I made that night was the final number of 12:30 when Mrs. Salaam asked for a lawyer.

Q Well, you said you had access to David Nocente's notes, did you consult his notes with relation to the times that some of these matters occurred?

A I once read his notes several months ago when I obtained them, and passed them on to Miss Lederer.

THE COURT: The question was, did you read and did you pinpoint times as to a result of reading those notes, that was the question.

THE WITNESS: The only time I remember pinpointing from his notes is when he said he arrived at the stationhouse at 11:30. I don't even know if he made reference to times thereafter.

Q You don't recall?

A I don't recall.

MR. BURNS: May we approach?

(Discussion at sidebar between Mr. Burns, Ms. Lederer, and Mr. Clements, off

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NYCLD_015382

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T2-fr

4536

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 the record.)

3 MS. LEDERER: The record should be
4 clear, I did provide Mr. Burns with a copy
5 of the material that was Faxed from the
6 U.S. Attorney's office to the District
7 Attorney's office.

8 MR. BURNS: And I have such a copy of
9 those notes, and I have a copy of those
10 notes in my office.

11 THE COURT: We're here now.

12 MR. BURNS: That's not the issue. I
13 don't have those notes now. The District
14 Attorney has a copy of notes --

15 THE COURT: The District Attorney has
16 her own notations on those notes. She
17 doesn't have to turn them over to you.

18 MR. BURNS: I'm not asking that she
19 turn them over to me. I'm just asking that
20 those notes be made available to me so I
21 can show them to the witness.

22 THE COURT: Maybe one of your
23 colleagues has a copy. Did everybody
24 receive copies of those notes?

25 MS. LEDERER: They're Mr. Nocente's

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T2-fr

4537

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 notes.

3 MR. BERMAN: We were never given them.

4 THE COURT: It's cross-examination
5 time. You're cross examining this witness,
6 presumably that applies to this witness and
7 they should be here.

8 MR. BURNS: Your Honor, I could not
9 anticipate that Miss Fairstein would be
10 that vague, or that her recollection could
11 possibly need refreshing, and I did not
12 bring those notes with me. She said she
13 doesn't remember -- she said she's had
14 access to the notes. She said that she
15 doesn't recall.

16 MS. LEDERER: The record has only been
17 in reference to notes that were Faxed to
18 our office. There's no reference that this
19 witness ever saw handwritten notes.

20 MR. BURNS: I'll ask her.

21 MS. LEDERER: The record should reflect
22 that my copy of my notes of Mr. Burns'
23 witnesses are being turned over to Mr.
24 Burns.

25 MR. BURNS: Could we have that marked,

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T2-fr

4538

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 that would be Defense Exhibit J for
3 identification.

4 (Document marked as requested)

5 Q I show you Defense Exhibit J for
6 identification, and I ask you whether -- well, that
7 contains notations in two separate handwritings, is
8 that not so?

9 Just look at it.

10 THE COURT: What is it you want to
11 show her?

12 THE WITNESS: I've never seen this
13 before, this is not what I was referring to
14 as Mr. Nocente's notes.

15 THE COURT: Are these Nocente's notes?

16 MS. LEDERER: Yes.

17 THE WITNESS: The document shown to
18 me, I've not seen before. That's not the
19 Faxed notes that I'm referring to.

20 MR. BURNS: Let me have this marked as
21 Defense K for identification.

22 (Document marked as requested)

23 Q Looking at Defense K for identification,
24 and I ask you, do you recognize it?

25 A Yes.

11/29/89

NYCLD_015385

P-APP001330

T2-fr

4539

FAIRSTEIN - REBUTTAL - CROSS - BURNS

Q All right, does that -- is that the Nocente notes that you had referred to in your earlier testimony?

A Yes.

Q And those are the notes that you had used which caused you to realize that you had received the news that someone was downstairs in the precinct on the night of the 20th at 11:30?

MS. LEDERER: Objection.

THE COURT: I'll let her answer.

She's shaking her head. She understands the question.

Is that right?

THE WITNESS: The answer is no, N-O, that is not right.

Q Were there some other notes that you had reviewed --

A No, sir, I said the notes were part of the process. These notes, as you can see, were not faxed to me until September 11th, which is the first time I saw that. There were earlier conversations as testified this morning with Detectives about reconstructing the event of the many hours, without a view to your client, but the many hours in

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T2-fr

4540

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS
2 particular that helped place the times things.

3 Q Were these notes part of the process?

4 A Part of the process in that when I read
5 these notes, I became aware what Mr. Nocente claimed
6 was the time he arrived at the precinct.

7 Q And do those notes refer to an 11:30 time?

8 A May I look at them?

9 Q Please.

10 MS. LEDERER: Objection.

11 THE COURT: I'll let her look at them.

12 THE WITNESS: This says that he arrived
13 at approximately 11:25 p.m.

14 Q Would you look at the rest of the notes?
15 When you looked at the notes before, you read the
16 whole thing, did you not?

17 A I did.

18 Q Now, does those notes contain any
19 references to time other than that 11:25 reference
20 as the time of his arrival?

21 MS. LEDERER: Objection.

22 THE COURT: I'll let her answer.

23 A I don't know, I haven't read it since
24 September 11. If you want me to read it, I'll --

25 Q Just look and see, does it make any

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T2-fr

4541

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS
2 references to times?

3 A Yes.

4 Q Does it make any reference to the time that
5 you had the conversation with Miss Salaam when you
6 were told that he was a minor?

7 MS. LEDERER: Objection.

8 THE COURT: Sustained.

9 Q You arrived -- what time did you arrive at
10 the 20th Precinct?

11 MS. LEDERER: Objection.

12 THE COURT: Sustained.

13 Q At the time when received the information
14 that someone was waiting downstairs inquiring about
15 Salaam, you were upstairs working as part of the
16 investigation; is that not so?

17 A Yes, assisting, yes.

18 Q And you were concerned that no -- that
19 mistakes weren't made? In other words, that the
20 proper procedures were followed; isn't that true?

21 A We were all concerned with the proper
22 procedures being followed, yes.

23 Q And you were concerned because minors were
24 involved, isn't that so?

25 A I was aware of it. That was not my purpose

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NYCLD_015388

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T2-fr

4542

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 for going there, as I testified earlier.

3 Q But wouldn't that be -- I'm not saying that
4 was your main purpose, but that was one of the
5 reasons that you became part of the investigation,
6 was to see that no mistakes were made and that the
7 rules, all of the rules were followed?

8 A No, that's not what my testimony about
9 mistakes were.

10 Q I'm not asking you about your testimony.

11 A The answer is no.

12 THE COURT: The answer is no.

13 Q Were you concerned about the rules being
14 followed:

15 A Not when I saw how well and careful they
16 were being followed by the police who were there
17 that night.

18 Q Didn't you testify earlier that when you
19 had learned that Yusaf was 15 years old, you sent
20 for Taglioni and Hall and you pulled them aside and
21 engaged them in conversation?

22 A No. I asked them -- had them sent for to
23 come down to talk to Mrs. Salaam, to straighten it
24 out. They obviously were operating under the idea
25 Yusaf was 16. She was saying he was 15.

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T2-fr

4543

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 THE COURT: That's all the question is.
3 Just answer the one question.

4 MR. BURNS: I move that that be
5 stricken.

6 THE COURT: The question or --

7 MR. BURNS: That portion of the answer
8 that is not responsive.

9 THE COURT: Strike out the last part.
10 Please just answer the question. Don't
11 give us a recitation.

12 THE WITNESS: I didn't take them aside
13 is the answer to the question, no.

14 THE COURT: That's the question.

15 Q Well, the conversation that you had with
16 them, relative to being careful to see that the
17 rules were followed, was that in Miss Salaam's
18 presence, is that your testimony?

19 A No.

20 Q Where was Mrs. Salaam when you took them
21 aside and told them or had that conversation with
22 them about you wanted to be careful about seeing
23 that all these rules are followed; we have minors,
24 et cetera, et cetera.

25 A Hall and Taglioni came downstairs, spoke to

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T2-fr

4544

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 Mrs. Salaam. We then turned away from her and I
3 said directly to them, and I said -- or to the
4 detectives, and said, "Let's err on the side of
5 caution, and cut this off."

6 Q And that was a concern of yours, was it
7 not, to see that the rules were followed; isn't that
8 true?

9 A Of course.

10 Q Now, would it be fair to say that according
11 to your testimony, 15 minutes earlier, by your
12 estimation, you had been told that he was a minor?

13 A That was not my testimony.

14 Q Well, how much earlier were you told that
15 Yusaf Salaam was a minor?

16 A Once it was told to me --

17 Q How much earlier?

18 A I estimated somewhere between three to six
19 minutes earlier.

20 Q Is it your testimony then that you were
21 told that Yusaf was a minor as part of the same
22 conversation when you were told that he was 15 years
23 old?

24 A Yes.

25 Q And that that conversation took place in

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NYCLD_015391

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T2-fr

4545

FAIRSTEIN - REBUTTAL - CROSS - BURNS

1 this little room off the lobby?

2 A In the large room off the lobby.

3 Q But it is a separate room off the lobby?

4 A Yes.

5 Q And this is while you were both seated?

6 A The three were seated, yes.

7 Q I'm sorry, the two women I mean when I said
8 both?

9 A Right.

10 Q Mrs. Salaam, the lady; right?

11 A Yes, that's right.

12 Q And you say that Vincent -- I'm sorry, the
13 man who was with them was asked to leave that room?

14 A yes.

15 Q And David Nocente was not permitted into
16 that room?

17 A That's correct.

18 Q And would it be fair to say that Mrs.
19 Salaam, from her testimony, was in the precinct a
20 half an hour before she told you that he was a
21 minor?

22 A Certainly 20 minutes from when she arrived.
23 Five to 12 to 12:15. Twenty minutes, it could have
24 been a half an hour.
25

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T2-fr

4546

FAIRSTEIN - REBUTTAL - CROSS - BURNS

Q And it could have been a half an hour?

A Yes.

Q And there's no question that when she came in, Yusaf was being questioned; is that right?

A That's correct.

Q Now, would it be fair to say that you don't know what time the other people who you described, that male and the female, you don't know what time they had arrived at the precinct?

A That's correct.

Q Would it also be fair to say that irrespective of what time they arrived, they were not permitted to see Yusaf?

MS. LEDERER: Objection.

THE COURT: Well, the question -- is your question, did they see Yusaf?

MR. BURNS: Well, were they permitted to see Yusaf.

MS. LEDERER: Objection.

THE COURT: I'll let her answer.

A To my knowledge, no.

Q And David Nocente, when he came as a friend of the family, he was not permitted to see Yusaf?

A He was not.

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T2-fr

4547

1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 Q And it's very clear in your mind that David
3 arrived at least, you're saying, at least five
4 minutes before Mrs. Salaam?

5 A Yes, that's right.

6 Q And Mrs. Salaam had arrived, and
7 incidently, the questioning was continuing, right?

8 A Yes.

9 MS. LEDERER: Objection.

10 THE COURT: I'll allow it.

11 Q And she came in and she asked to see her
12 son and she was not permitted to see her son, isn't
13 that correct?

14 A Yes.

15 Q And the conversation with Mrs. Salaam,
16 relative to his being a minor and being 15, you say
17 that that was the same conversation?

18 A Yes.

19 Q Was it also part of that same conversation
20 where she said she was going to get a lawyer for
21 him?

22 A No.

23 Q When did that conversation occur?

24 A That was the last statement she made to me
25 that I wrote down at the time, 12:30 in the evening.

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T2-fr

4548

FAIRSTEIN - REBUTTAL - CROSS - BURNS

Q And where was that -- where was that conversation held?

A In the lobby area.

Q That was outside of that little -- I'm sorry, the large enclosed office?

A Yes, she walked up to me where she had been with Nocente, and said, "I want you to know we want a lawyer. We're going to get a lawyer."

Q As I understand it, you were concerned to see -- in seeing that certainly ethical standards by lawyers were properly followed, and that's why you got agitated at David Nocente's presence; is that right?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q Did you feel any ethical obligation to inquire when you found out he was a minor to ask him his age?

MS. LEDERER: Objection.

MR. BURNS: I'm sorry, to ask the mother, Mrs. Salaam, Yusaf's age?

THE WITNESS: I believe I knew his age.

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1 People Rebuttal - Fairsteil - Cross - Burns 4549

2 Q. No, that's --

3 MR. BURNS: I move to strike that as being
4 not responsive.

5 THE COURT: I'll allow it to stand.

6 Q. Did you feel any ethical obligation to inquire as
7 to what Yusaf's age was when you learned that he was a
8 minor?

9 MS. LEDERER: Objection.

10 THE COURT: I'll let her answer that
11 question.

12 Q. Yes or no.

13 THE COURT: If you can.

14 Q. If you can't, say you can't, but either yes, no,
15 or I can't.

16 A. I thought I was -- please, I was being ethical
17 because we knew his age.

18 MR. BURNS: I move to strike that as not
19 responsive.

20 THE COURT: The question has been asked and
21 answered so many times, so many different ways,
22 you keep putting the question a different way.
23 The question has been answered, how many times you
24 have to have a question? What difference does it
25 make whether she was ethical or unethical? The

Joseph T. Tierney, CSR, RPR

1 People Rebuttal - Fairsteil - Cross - Burns 4550

2 law is the law, either she followed it or she
3 didn't. If she was ethical and didn't follow the
4 law, I suppose she was not ethical. Her state of
5 mind about ethics is not important. The question
6 is was the law followed.

7 MR. BURNS: But her state of mind as a part
8 of this investigation I think, your Honor, is very
9 relevant, your Honor.

10 THE COURT: Okay.

11 MR. BURNS: That's why I asked the question.

12 THE COURT: I'm sure you had a reason, but I
13 disagree.

14 MR. BURNS: Does that mean she can answer it?

15 THE COURT: No, it's already been answered
16 as far as I'm concerned on that issue.

17 MR. BURNS: Does that mean it's a no?

18 THE COURT: Please, you have any other
19 questions?

20 MR. BURNS: Just one minute.

21 (Defense counsel conferring.)

22 Q. I think that one point in your testimony I believe
23 in response to direct examination, you testified that he had
24 told you that he was a Big Brother?

25 A. Yes.

Joseph T. Tierney, CSR, RPR

1 People Rebuttal - Fairsteil - Cross - Burns 4551

2 Q. All right. What was that conversation, what did
3 you say to him, what did he say to you and what did you say
4 to him?

5 A. It was the last conversation that I had with him,
6 perhaps a minute before Mrs. Salaam said to me at 12:30, "I
7 want a lawyer." It's when he said to me -- I had asked him
8 to come into the stationhouse because he was talking to
9 other -- to family members of other defendants and I asked
10 him to come in and asked if he was counseling or giving
11 legal advice to other people, that I wanted to know that.

12 Q. Was he near tears at that time?

13 A. No, he was not, he was fine. And he said no --
14 and he said to me, "I'm answering questions for them." He
15 said, "Can't you understand, can't you think of a similar
16 hypothetical situation?" And we had very calm discussion
17 about that, that was brief. And then he said to me -- I
18 asked him exactly what his involvement was that had him
19 here, and he said, "I'm his Big Brother." And for the
20 moment, I wasn't thinking, he said, "You know. The
21 organization" --

22 Q. That's the -- the gist the conversation.

23 A. Okay. He said to me, he said he didn't mean older
24 brother, he meant the organization that sponsors. And he
25 described that he has been for a number of years and he

Joseph T. Tierney, CSR, RPR

1 People Rebuttal - Fairsteil - Cross - Burns 4552
2 described in several sentences for a number of years he had
3 been Yusef Salaam's Big Brother. Then I said something not
4 very nice to him that appears in the notes that Mr.
5 Berman --

6 Q. Just your answer. What did you say to him and
7 what did he say to you?

8 MR. BURNS: That's all I asked for, Judge.

9 A. Okay, he was describing this to me.

10 THE WITNESS: And my apologies to the Court.

11 A. (continuing) You want the literal words that I
12 said?

13 Q. If you remember what you said.

14 A. I remember what I said, I wrote it down because I
15 assumed he would tell his supervisor.

16 THE COURT: Please, come on, finish it and
17 stop.

18 A. I said, "You did a real," and cursed, "job at it."

19 Q. Is that what you remember saying?

20 A. That's exactly what I said.

21 Q. You did a real curse job?

22 A. No, no, I used --

23 THE WITNESS: Shall I say it?

24 THE COURT: Something we've all heard before.

25 Q. What's the word you used?

Joseph T. Tierney, CSR, RPR

1 People Rebuttal - Fairsteil - Cross - Burns 4553

2 A. Okay. I said, "You did a real shit job at it."

3 Q. And what did he say at that point in response to
4 that statement?

5 A. He did not say a word.

6 Q. And what did you mean to convey to him when you
7 said that?

8 MS. LEDERER: Objection.

9 THE COURT: Objection sustained.

10 Q. Did his presence in the station or in the precinct
11 anger you to the extent that you felt you had to curse him?

12 MS. LEDERER: Objection.

13 THE COURT: Sustained.

14 Q. But you did use that word.

15 A. I did.

16 THE COURT: She just said she did.

17 Q. Did you view that as ethical?

18 MS. LEDERER: Objection.

19 THE COURT: Sustained. Anything else? You
20 want to collaborate further?

21 (Defense counsel conferring)

22 MR. BURNS: I have nothing further.

23 MR. MOORE: May I inquire?

24 MS. LEDERER: Excuse me, your Honor, before
25 Mr. Moore takes over, Mr. Burns asked for a copy

Joseph T. Tierney, CSR, RPR

1 People Rebuttal - Fairstein - Cross - Moore 4554

2 of notes that had previously been served on him.

3 I gave him my set of notes. I asked not -- not
4 simply the U.S. Attorney notes, but he asked for
5 notes Miss Fairstein prepared with respect to a
6 conversation with Sharonne Salaam with respect to
7 a request for an attorney, I would ask for those
8 notes back, please.

9 THE COURT: Why don't you go ahead.

10 MR. MOORE: Yes, thank you.

11 CROSS-EXAMINATION

12 BY MR. MOORE:

13 Q. Miss Fairstein, prior to your testimony today
14 here, did you confer with Mike Sheehan about the substance
15 of your testimony today?

16 A. I haven't seen Mike Sheehan in six months. No, I
17 did not.

18 Q. Did you confer with Augie Jonza about the
19 substance of your testimony today?

20 A. No, I did not.

21 Q. Did you confer with anyone at the crime scene who
22 was there at the crime scene on 4/21 about the substance of
23 your testimony today?

24 A. Who was at the crime scene when we took your
25 client there?

Joseph T. Tierney, CSR, RPR

1 People Rebuttal - Fairstein - Cross - Moore 4555

2 Q. Right, right.

3 A. No.

4 Q. Okay.

5 Q. So, it is your testimony, is it not, that you were
6 testifying about the events of 4/21 without conferring with
7 anyone who was at the crime scene that day?

8 A. That's right.

9 Q. Now, Miss Fairstein, you have -- did you make --

10 MR. MOORE: Sorry, withdrawn.

11 Q. Did you make notes of your conversations at the
12 crime scene on that very day?

13 A. No.

14 Q. In fact, you did not make notes of your
15 conversations until three days after; isn't that correct?

16 A. Yes.

17 Q. On 4/24?

18 A. Right.

19 Q. And would you say that the notes that you made
20 reflect accurately the conversations and events that took
21 place on 4/21 of '89?

22 A. I would say they tried to.

23 Q. Did they?

24 A. If you want to show them to me again, I haven't
25 seen them since last here.

Joseph T. Tierney, CSR, RPR

People Rebuttal - Fairstein - Cross - Moore 4556

Q. I'd like to show you --

(Document handed to the witness by the court officer.).

A. This is in regard to Richardson.

Q. Pardon me?

A. These are with regard to Richardson, not your client.

Q. Would you look through them? Were there any other notes with regard to 4/21?

MS. LEDERER: Objection.

THE COURT: I'll allow it.

4/21?

MR. MOORE: Yes.

A. The ones that refer to your client?

Q. Yes.

A. These are not the notes --

MR. MOORE: May I ask the District Attorney --

MS. LEDERER: I gave copies of this stuff.

THE COURT: This was all turned over, this is part of the material that was turned over.

MR. MOORE: One second.

Q. But these notes do refer to my client, do they not?

Joseph T. Tierney, CSR, RPR

1 People Rebuttal - Fairstein - Cross - Moore 4557

2 A. Yes, but there are more notes that refer to your
3 client and what happened at the crime scene.

4 MR. MOORE: One second.

5 Q. I'd like to show you what purports to be some of
6 your notes.

7 (Documents handed to the witness by the court
8 officer.)

9 A. Is there a question? There are a lot of other
10 people's notes.

11 Q. Yes.

12 THE COURT: What's your question?

13 Q. Have you seen any --

14 A. The page I'm referring to that you used to
15 cross-examine me two weeks ago isn't in here.

16 Q. All right, let me just show you this note again.

17 MR. MOORE: Could we have that marked as I
18 think Wise J?

19 Q. Does that reflect some of the events that took
20 place on 4/21 at about 7:00 a.m. in the morning?

21 A. Some. But what's missing is the page that's
22 headed with your client's name with more notes about what
23 your client said to me.

24 THE COURT: I think you are looking for Wise

25 G. Do you have your notes, Counsel, Wise G, that

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2 might help?

3 Q. Let me just show you --

4 (Document handed to the witness by the court
5 officer.

6 A. Not even close.

7 THE COURT: Don't you have your exhibits?

8 MR. MOORE: I don't have Wise, here.

9 MS. LEDERER: Excuse me, Judge, Wise G is the
10 medical records.

11 THE COURT: Wise G? Not according to my
12 notes, "the District Attorney's notes of
13 incident." That's right, I have Wise G. I have a
14 G with that, maybe I mismarked mine.

15 MR. BURNS: I have a copy, Judge.

16 (Exhibit handed to the witness by the court
17 officer.

18 A. That's it.

19 Q. Okay. Now, Miss Fairstein, does this reflect --
20 refresh your recollection of what took place on 4/21 --

21 MS. LEDERER: Objection.

22 A. I remember very well --

23 MS. LEDERER: Objection.

24 THE COURT: She didn't say she needed her
25 recollection refreshed.

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2 A. I remember those events very well.

3 Q. All right, fine. Now, do you recall how you got
4 from the 24th Precinct to Central Park that morning?

5 A. Yes.

6 Q. How -- how was that?

7 A. In an unmarked police car with Jonza, Sheehan,
8 Wise and Richardson.

9 Q. Was it one car or two cars?

10 MS. LEDERER: Objection?

11 A. One car.

12 THE COURT: I'll allow it.

13 Q. Miss Fairstein, if I were to tell you that
14 Detective Sheehan testified here in this hearing and
15 testified that, in fact, you went in two cars, would you say
16 that his testimony was inaccurate?

17 A. Yes.

18 MS. LEDERER: Objection.

19 THE COURT: Sustained.

20 Q. I'd like to show you some notes.

21 THE COURT: Are these an exhibit -- have
22 these been marked?

23 MR. MOORE: Yes, I just want to ask her a
24 question.

25 Q. Are those notes you have prepared?

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2 A. No.

3 Q. That you prepared?

4 A. Never seen them before.

5 Q. Okay. At the top of the notes, does it indicate a
6 name?

7 A. Yes.

8 MS. LEDERER: Objection.

9 Q. What name is that?

10 MS. LEDERER: Objection.

11 THE COURT: Sustained.

12 Q. Now, when you arrived at the ravine in Central
13 Park that day, do you recall what Kharey Wise said?

14 A. Yes.

15 Q. And what did he, in fact, say?

16 A. When we arrived at the ravine, he said nothing.
17 When he joined Sheehan and me on the very bloodied area of
18 the scene is when he said what I testified earlier, "Damn
19 damn, damn, there's a lot of blood. This is bad, I didn't
20 realize how bad it was. It was dark at night, I couldn't
21 see how much blood there was."

22 Q. Did he say anything else?

23 A. No, he was returned to the car within a minute of
24 that.

25 Q. So, in fact, it is your testimony that he said,

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2 "Damn, damn, that's a lot of blood, that's really bad, I
3 didn't realize how much blood there was"?

4 A. Yes.

5 Q. Was that the sum total of what he said?

6 A. I believe so. As he said -- as I said, he kept
7 muttering, "Damn, damn, damn, there's so much blood, there's
8 so much blood." He said that a few times, then Sheehan
9 asked him the question, something, "Is this familiar to you,
10 is is in where it happened?"

11 Q. No, without looking down at your notes, Miss
12 Fairstein. I'm asking you if you have an independent
13 recollection of what was said?

14 A. Yes, I do, I just told you.

15 Q. And I asked you if that was the sum total and you
16 said yes, am I correct? Am I correct, that's the sum total
17 of what he said in the ravine that morning?

18 A. Yes.

19 Q. Do you recall being -- testifying here on November
20 13th of this year?

21 A. Yes.

22 Q. And do you recall being asked this question and
23 giving this answer:

24 "QUESTION: When he arrived at the location where you
25 and Detective Sheehan were" --

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2 THE COURT: What page is that?

3 MR. MOORE: 3064.

4 Q. "When he arrived at the location where you and
5 Detective Sheehan were, did either of you ask him a
6 question?

7 ANSWER: I think the first thing that Detective
8 Sheehan said to him how much blood there was, Sheehan
9 said something like, 'Why does that surprise you?' And
10 Kharey said, 'I knew she was bleeding but I didn't know
11 how bad she was, it was really dark, I couldn't see
12 much blood.' Sheehan then asked him was that area
13 familiar, he said, 'This is where -- this is where
14 we -- we,' and then he said, 'they raped her.'
15 Do you recall being asked that question?

16 A. Yes.

17 Q. And giving that answer?

18 A. Yes.

19 Q. So he did -- apart from the comment on the blood,
20 he did state, did he not, that, "This is where we -- they
21 raped her"?

22 A. Yes.

23 Q. I asked you that a couple of moments ago, but you
24 didn't recall that?

25 A. I think I did.

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2 Q. No, you did not.

3 A. Let's not argue.

4 THE COURT: Well, you didn't say that
5 anyway. Whether you recalled that or not, that
6 wasn't part of your testimony.

7 Q. Now, you recall -- do you recall that before he
8 came into the ravine, that you were in the upper roadway; am
9 I correct?

10 A. Yes.

11 MS. LEDERER: Objection, beyond the scope.

12 THE COURT: I don't know whether this is part
13 of the same 102nd Street Crossdrive.

14 Q. And do you recall whether Sheehan asked him any
15 question on the upper roadway and whether he made a
16 response?

17 A. Yes, he did.

18 Q. What was the question, what was the response?

19 A. I would like to look at my notes.

20 Q. Do you have an independent recollection?

21 A. I would be close, but --

22 Q. Well, could you -- could you give us a close
23 estimation of what question was asked and what he said?

24 A. Whether that area was familiar.

25 Q. What did he say?

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2 A. I believe he described where he had been coming
3 from when the girl was grabbed. If I may look at my notes,
4 I'm sure it's there.

5 Q. Can you look at your notes?

6 A. Yes.

7 Q. Close?

8 A. Yes.

9 Q. Yes?

10 A. He pointed out where he was coming from, which is
11 the ball field south of the Drive, and said that was where
12 he was when "they snatched the jogger."

13 Q. Now -- I'm sorry, could I just have that?

14 Now, you've testified, in other words, that both you
15 and Sheehan were at the crime scene that particular morning,
16 is that correct?

17 A. Yes.

18 Q. So, my question to you is if Detective Sheehan's
19 recollection differs from yours, it is your testimony that
20 he was inaccurate; is that correct?

21 MS. LEDERER: Objection.

22 THE COURT: Sustained.

23 MR. MOORE: Could we just approach?

24 THE COURT: Yes.

25 (There is a discussion at the bench, off the

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2 record, among the Court and Counsel and out of the
3 hearing of open court. At the conclusion of the
4 bench conference, the following takes place in
5 open court:)

6 Q. Miss Fairstein, what was the purpose of taking
7 Kharey Wise to the crime scene that morning?

8 MS. LEDERER: Objection.

9 THE COURT: I'll let him answer -- let her
10 answer.

11 A. To try to determine over the course of the what I
12 would call three hundred feet or more that involved the
13 crime scene, to place where different events had occurred.

14 Q. In other words, was it one of your functions to
15 match the statements that he had made with the crime scene?

16 A. No.

17 Q. No?

18 MR. MOORE: Page 3050.

19 Q. Do you recall being asked this question and giving
20 this answer?

21 "QUESTION: What, if anything, did you say to Mr.
22 Richardson and what, if anything, did he say to you?"

23 MR. MOORE: I don't want to go through the
24 whole thing, I'm speaking of line 22, 23, 24, 25,

25 "ANSWER: We're going to try to put" --

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2 MS. LEDERER: Wait, excuse me. Objection.

3 Are you jumping now from line 1 down to the bottom
4 of the page? You just read from the bottom of --

5 MR. MOORE: Just a moment. I'm reading the
6 question and reading a part of the answer. A
7 large part of the answer has nothing to do with
8 the question.

9 MS. LEDERER: Your Honor, I object to this
10 being read as part of the impeachment of this
11 witness. This is pertaining to questions that
12 were put to Mr. Richardson, having nothing to do
13 with the purpose of taking Kharey Wise to the
14 scene.

15 MR. MOORE: In this statement, she does state
16 the reason why they were going to the crime scene,
17 that particular part.

18 THE COURT: Let me see it, please.

19 MR. MOORE: Sure.

20 (There is a discussion at the bench, off the
21 record, among the Court and Counsel and out of the
22 hearing of open court. At the conclusion of the
23 bench conference, the following takes place in
24 open court:)

25 THE COURT: Objection sustained. The

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2 questions that are posed -- the question posed and
3 the answer pertaining to Richardson, not Wise.

4 MR. MOORE: All right.

5 Q. What did you say was the reason for taking Kharey
6 Wise there?

7 MS. LEDERER: Objection, asked and answered.

8 THE COURT: I'll let her answer it again.

9 You can tell him again.

10 A. We were -- the crime scene extended for more than
11 three hundred feet, there were a number of areas of
12 occurrence. We were trying to determine where events
13 happened.

14 Q. Was your reason for taking Kharey Wise different
15 from your rational for taking Kevin Richardson?

16 MS. LEDERER: Objection.

17 THE COURT: Sustained.

18 Q. Were you taking both of them to the crime scene
19 for the same reason?

20 MS. LEDERER: Objection.

21 THE COURT: Sustained.

22 Q. So, is it your testimony then that you did not
23 take him there for the purpose of determining whether his
24 statements were borne out by the physical layout of the
25 crime scene?

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2 MS. LEDERER: Objection.

3 THE COURT: Sustained.

4 Q. Before you took him there that morning, were you
5 aware that he had made statements?

6 MS. LEDERER: Objection.

7 THE COURT: I'll let her answer that if she
8 was.

9 Just yes or no or I don't know.

10 Q. Let me rephrase that. Were you aware of the fact
11 that he had made a statement?

12 A. Not a video statement, I knew he had not made a
13 video statement.

14 Q. No, not a video. Were you aware of the fact he
15 had made a written statement?

16 A. I knew that he had said something.

17 Q. Were you aware of the fact he had made a written
18 statement?

19 MS. LEDERER: Objection.

20 THE COURT: No, I'll let her answer. That
21 was the question.

22 A. I don't recall at this moment.

23 Q. Did you ask Detective Sheehan to see the written
24 statement?

25 MS. LEDERER: Objection.

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2 THE COURT: Sustained.

3 Q. Did you ask anyone to look at his written
4 statement?

5 MS. LEDERER: Objection.

6 THE COURT: Sustained.

7 Q. So, was it your purpose, Miss Lederer, to take
8 Kharey Wise --

9 A. I'm Fairstein.

10 Q. -- Miss Fairstein, to take Kharey Wise to the
11 crime scene and to get him to smear on his body some of the
12 evidence of what -- what exactly was in the crime scene that
13 day?

14 A. Absolutely not.

15 Q. When he arrived at the crime scene, Detective
16 Sheehan did point out to him the blood?

17 A. No, he did not.

18 Q. Did he --

19 A. No, no, as I testified earlier, Kharey Wise walked
20 up to us. There was so much blood on the ground, he became
21 aware of the blood before he reached us and before he said a
22 word to us, before -- excuse me, before we said a word to
23 him and he started saying out loud, "Damn, damn, damn,
24 there's so much blood."

25 Q. But you called him from the car, did you not?

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2 A. Correct.

3 Q. And the place where you were standing had blood in
4 it, did it not?

5 A. Yes, it did.

6 Q. So you called Kharey Wise from the car where he
7 was into the area where there was blood, did you not?

8 A. To the scene at which --

9 Q. There was blood?

10 A. -- part of the crime had occurred.

11 Q. You were aware when he was coming to the scene
12 that he would, in fact, be in an area that was close to the
13 blood, were you not aware of that fact?

14 A. As close to it? Not as close to it as we were.

15 Q. But you were standing in an area that was very
16 close to the blood, correct?

17 A. Yes, within feet of the blood.

18 Q. As a matter of fact, and there was so much blood
19 on the ground that it was obvious to anyone standing there
20 that there was blood on the ground, was there not?

21 A. Dried blood, yes.

22 Q. Dried blood, that's correct. And either you or
23 Sheehan called him from the area where he was in the car to
24 the area where the blood was, yes or no?

25 A. Where --

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2 Q. Where there was blood?

3 A. There was blood in that area, yes.

4 Q. That's right. And you were aware also of the fact
5 when he came to that area, there was a probability that he
6 would be stepping in the blood?

7 A. We certainly took pains to make sure that he was
8 nowhere near the blood because I wanted the Crime Scene Unit
9 detectives to go back and work up that scene.

10 Q. What pains did you take to make sure he would
11 avoid it?

12 A. We didn't --

13 MS. LEDERER: Objection.

14 THE COURT: I'll allow it.

15 A. We didn't let him anywhere near it, we were
16 between him and the blood.

17 Q. And you knew as an experienced prosecutor, did you
18 not, that there may very well have come a time when DNA
19 tests would be taken of samples of clothing and so forth to
20 be compared with -- with what was found on the victim, did
21 you not?

22 MS. LEDERER: Objection.

23 THE COURT: Sustained.

24 Q. Well, you have been working in the Sex Crimes Unit
25 for some time?

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2 A. Yes.

3 Q. And you are also aware of the fact that on
4 especially sex related crimes, that there is an emphasis on
5 medical evidence, are you not?

6 MS. LEDERER: Objection.

7 THE COURT: Sustained.

8 Q. That in a large number of --

9 THE COURT: If you are going to continue
10 these questions on the same line, I will sustain
11 objections to each question. You have an
12 exception. There is no sense going through a
13 whole series of questions on that line, I will
14 sustain objections to all of them.

15 MR. MOORE: I want to take exception, your
16 Honor, the fact I could not go into the purpose of
17 taking them to the crime scene.

18 THE COURT: You have an exception.

19 MR. BERMAN: Judge, may we approach for a
20 moment.

21 THE COURT: No.

22 You have any other questions?

23 I'm not going to recess, if that's your
24 question. Our problem takes precedence.

25 MR. BERMAN: I wasn't going to ask to recess,

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2 I was going to ask if there were any further
3 witnesses after the redirect.

4 THE COURT: I don't think so. There is a
5 stipulation going to be entered into at the
6 conclusion of this witness.

7 MR. RIVERA: Stipulation, your Honor?

8 MS. LEDERER: You stipulated that --

9 THE COURT: The person called would say
10 they --

11 MS. LEDERER: You stipulated to it.

12 THE COURT: You will object on relevancy.

13 MR. BERMAN: Judge, can I ask your court
14 clerk to call Judge Keenan do say I am going to be
15 a couple of minutes late?

16 THE COURT: Give Sandra the number.

17 (There is a pause in the proceedings.)

18 Okay.

19 MS. LEDERER: I'd ask please the witness be
20 shown Salaam Exhibit K for identification.

21 (Exhibit handed to the witness by the court
22 officer.

23 REDIRECT EXAMINATION

24 BY MS. LEDERER:

25 Q. Do you recognize Salaam Exhibit K for identi-

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1
2 fication?

3 A. Yes, I do.

4 Q. Would you please tell the Court how it came about
5 that you saw it and then obtained Salaam Exhibit K?

6 MR. BURNS: I can object to that -- I mean
7 may I object to that?

8 THE COURT: You had it marked, I'll allow it.

9 A. I believe I first learned in a conversation with
10 you that Mr. Nocenti had said that he had written a report
11 of the events of the night of April 20th for his superiors
12 at the office and he had refused to give it to you and I
13 went to our First Assistant District Attorney, Barbara
14 Jones, and asked her if she could get a copy -- her contacts
15 with that office, she called the Chief Assistant United
16 States Attorney, Mr. Yergenson. In her presence, I had a
17 phone conversation with Mr. Yergenson. He then Faxed the
18 report that same day to Barbara Jones. She gave a copy to
19 me, I read it and gave a copy to you.

20 MR. BURNS: I object, your Honor.

21 THE COURT: Overruled.

22 MR. BURNS: I would like to put the reasons
23 for my objection on the record.

24 THE COURT: Go ahead.

25 MR. BURNS: I tried to get into this area on

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my cross, you didn't let me.

THE COURT: Then you have an exception.

MR. BURNS: Why is it --

THE COURT: You have an exception.

MR. BURNS: -- she can go into it on redirect
and bring it up?

THE COURT: I overruled your objection, you
have an exception.

MR. BURNS: That you, your Honor.

Q. The top part of Salaam Exhibit K have anyway to do
with the way you received that report?

MR. BURNS: I object. Do I have a continuing
objection concerning this document, concerning --

THE COURT: Yes. Salaam K.

MR. BURNS: -- which I were not permitted to
question the witness about?

THE COURT: Yes.

A. Yes, in that it has the date on it and the name of
the man who I spoke to about obtaining it and the -- that it
was Faxed to Barbara Jones at the District Attorney's
Office.

MR. BURNS: I'm sorry, your Honor, if you
made an answer, I didn't hear it, if I didn't hear
it, the record --

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THE COURT: I told you originally you have an exception. I am allowing this testimony, you have an exception.

MR. BURNS: All right.

Q. Directing your attention to the conversation you had with Sheronne Salaam, Mrs. Salaam or Yusaf's mother, wherein she made the statement that you've testified to telling us that Yusef Salaam was a minor --

A. Yes.

Q. -- do you recall the time that she stated that to you?

A. Yes.

Q. Would you please repeat exactly what you said and then what she said immediately thereafter until the time that she told you he was 15?

MR. BURNS: Your Honor, I object to that.

That's not proper redirect.

THE COURT: Okay, overruled.

MR. BURNS: All right.

A. I believe she said that -- we sat down, she repeated that she wanted to see her son and he's a minor, and I said that she would be able to see him when the police were finished questioning him. And she said, "He's 15 years old, I want to see him." And that's when I said to her --

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2 that's when I said to her that I was surprised to hear he
3 was 15, I believed he is 16, "do you have any identification
4 with you?

5 Q. How much time elapsed between the time she
6 informed you he was a minor and the time she informed you he
7 was 15 years old?

8 A. That was the next two sentences she said.

9 MS. LEDERER: Thank you very much. I have
10 nothing further.

11 THE COURT: Mr. Burns, you have anything
12 else?

13 MR. BURNS: Thank you, your Honor.

14 RECROSS-EXAMINATION

15 BY MR. BURNS:

16 Q. And do I understand you that your belief that he
17 was 16 was the notation you saw on the top of McKenna's
18 notes?

19 A. And other information.

20 Q. What other information did you have besides
21 McKenna's notes?

22 MS. LEDERER: Objection.

23 THE COURT: It's not proper but I'll allow
24 it.

25 A. That I had been told by Taglioni that when he was

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1 picked up, he himself had said -- he himself meaning
2 Salaam -- had said he was 16, that he had been picked up
3 with Kharey Wise, who was the only other one in the group
4 who was also 16, and that because the detectives had been
5 not bringing in those people they knew were 15 and actually
6 leaving them and saying we'll come back for you another
7 time, that nobody was in there being questioned who had not
8 established in one way or another that they were 16 without
9 adults present.
10

11 Q. And this conversation that you -- that you're
12 testifying you had with Taglioni, that was at the time he
13 showed you McKenna's notes?

14 MS. LEDERER: Objection. This -- objection,
15 beyond the scope.

16 THE COURT: No, I'll allow that.

17 Q. Yes or no?

18 A. Part then -- the part with Taglioni was; yes, when
19 he brought me the book --

20 Q. That's what I'm asking.

21 THE COURT: The answer is yes, that's part
22 of it?

23 THE WITNESS: Yes.

24 Q. That's what I'm asking. Did he tell you -- did he
25 have this conversation with you before you were looking at

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2 the notes -- before you were looking at McKenna's notes?

3 MS. LEDERER: Objection.

4 THE COURT: I'll allow it.

5 A. As I was looking at the notes --

6 Q. As you were --

7 A. His part of it, which is not the whole
8 conversation, I just told you.

9 Q. All right. While you were looking at the notes,
10 he told you that?

11 A. I believe I asked him --

12 Q. No, no, that's a yes or no answer.

13 THE COURT: She can answer yes or no.

14 Q. If you can't answer it, would you say you can't
15 answer it, Miss Fairstein?

16 THE COURT: What is your question,
17 specifically what is your question?

18 Q. Did he tell you she was 16 -- I'm sorry, did
19 Tag -- Detective Taglioni tell you that Yusef said he was 16
20 in the hallway at the time he took him in while you were
21 looking at the notes?

22 A. No.

23 Q. Had you finished looking at the notes before
24 Detective Taglioni told you that Yusef told him that he was
25 16 in the hallway?

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2 A. I believe I made a comment to him after reading
3 the notes and seeing the kid's name, address and date of
4 birth right there on the notes.

5 Q. And what was the comment that you made to him?

6 A. I asked who was with him, he said McKenna.

7 Q. I'm sorry --

8 A. My recollection is I said anyone else, and I said
9 out loud he's 16, meaning there's no family necessary there,
10 as there were in the other rooms. I was aware that families
11 were present there with kids under 16.

12 Q. And you said that to Taglioni?

13 A. I believe I said that out loud.

14 Q. Do you have a clear recollection that that was
15 part of the conversation that you had with Taglioni?

16 MS. LEDERER: Objection.

17 THE COURT: Overruled.

18 A. No.

19 Q. But was that your basis for telling Miss -- Mrs.
20 Salaam that you believed he was 16 when she first told you
21 he was 15?

22 A. As I said, it was part of --

23 Q. Yes or no?

24 A. Part of -- it was part of. So, no, it was part
25 of.

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2 Q. Was there anything other than the fact that the
3 notes that McKenna had that you read and what Taglioni told
4 you, was there anything else which caused you to believe
5 that Yusef Salaam was 16 instead of 15?

6 A. Yes.

7 Q. What else was there?

8 A. As each -- as Miss Lederer was working and I was
9 running interference for her at the stationhouse, as
10 individuals were brought in, we were told by Captain Rowe or
11 Sergeant Cleeve or, in fact, Inspector Powers who was being
12 brought in, what their participation was, that we're --
13 there was a big problem with where to manpower this and we
14 were being told Detective X is going to the third floor, he
15 is going to work in that room with this kid. And we had
16 been told who was there and whether or not they were
17 accompanied by a family member because these detectives knew
18 whether or not they had to be.

19 Q. Well, then when you were told also that someone
20 was inquiring about Salaam, your understanding at that time
21 is that he was 16; is that right?

22 MS. LEDERER: Objection.

23 THE COURT: Overruled.

24 Q. Is that right?

25 A. I personally --

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Q. Yes or no?

A. No, because I didn't know who he was for sure.

Q. All right. When you were informed that he was brought in and that he was 16, you mean you did not have that in your mind, you didn't keep that in your mind?

A. I didn't keep by name --

Q. By name?

A. -- that he was that. We were going through 33 names that night.

Q. Then when Taglioni came in with McKenna's notes, then it triggered your recollection oh, this is one of the guys that was brought in earlier, he is 16; is that right?

A. Said it right there, yes.

Q. And so was that information that you had learned originally, plus McKenna's notes, plus what Taglioni told you, that's what caused you to believe that he was 16?

A. Yes.

Q. What was your reason for sending for the notes?

MS. LEDERER: Objection.

THE COURT: I'll allow it.

A. To see before I spoke to the person who was downstairs what we knew at that point about this individual's participation in the events of the night. It was then I found out he is the individual who struck her

Joseph T. Tierney, CSR, RPR

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head with the pipe.

Q. So, would it be fair to say then that before going down to David, you wanted to know how far the questioning had gone?

A. No, not how far it had gone, what -- what this person's involvement was, was I dealing with someone who was just a witness, who was, as many people claim, present for the rape but not a participant, or, in fact, as I determined by reading it, one of the most violent main actors in the events.

Q. I see.

MR. BURNS: Nothing further.

THE COURT: Would you like to ask some more questions?

(No response.)

THE COURT: Thank you.

THE WITNESS: Thank you.

(The witness leaves the witness stand.)

THE COURT: Okay, we have a stipulation and an objection, I believe.

MS. LEDERER: There has been an exhibit previously marked as People's Exhibit 44 for identification, a copy has been provided to Mr. Rivera. This is a Board of Education, City of New

Joseph T. Tierney, CSR, RPR

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NEW YORK : CRIMINAL TERM : PART 59
3 THE PEOPLE OF THE STATE OF NEW YORK INDICT: 4762/89

4 -against-

5 ANTRON MCCRAY, RAYMOND SANTANA,
6 and YUSEF SALAAM,

7 Defendants.

8 August 6, 1990

9 B e f o r e :

10 HONORABLE THOMAS GALLIGAN,

11 Justice, and a jury

12 (Appearances same as previously noted.)

13 *****

14 MORNING SESSION - JURY NOT PRESENT

15 THE COURT CLERK: Case on trial continued,
16 People of the State of New York versus Raymond
17 Santana, Yusef Salaam, Antron McCray, Indictment
18 4762 of '89.

19 THE COURT: Are the People ready?

20 MS. LEDERER: Yes.

21 THE COURT: Defendants ready?

22 MR. JOSEPH: Yes.

23 MR. BURNS: Yes.

24 MR. RIVERA: Yes.

25 JURY PRESENT

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1 Colloquy

2 THE COURT CLERK: The defendants, their
3 attorneys, the Assistant District Attorneys and all
4 sworn jurors are present.

5 THE COURT: Good morning, ladies and gentlemen.

6 THE JURY: Good morning.

7 THE COURT: Call your next witness.

8 MS. LEDERER: People call Linda Fairstein.

9 L I N D A F A I R S T E I N, Chief of the Sex Crimes
10 Prosecution Unit of the District Attorney's Office, New York
11 County, New York, called as a witness by the People of the
12 State of New York, having been first duly sworn, was examined
13 and testified, under oath, as follows:

14 THE COURT OFFICER: In a loud, clear voice,
15 would you state your name, and spell your last name.

16 THE WITNESS: My name is Linda Fairstein, F-a-
17 i-r-s-t-e-i-n.

18 DIRECT EXAMINATION

19 BY MS. LEDERER:

20 Q Ms. Fairstein, how are you employed?

21 A I am an Assistant District Attorney in New York
22 County.

23 Q And what is your title or position in the District
24 Attorney's office of New York County.

25 A I am Chief of the Sex Crimes Prosecution Unit of the

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1 Fairstein - People - Direct
2 District Attorney's office.

3 Q How long have you been employed as an Assistant
4 District Attorney?

5 A Almost 18 years.

6 Q Directing your attention to April 20th of 1989.

7 Did there come a time on that date that you went to the
8 20th Precinct?

9 A Yes, there did.

10 Q And at approximately what time did you arrive at the
11 20th Precinct?

12 A A little after 8:30 that evening.

13 Q Ms. Fairstein, are you familiar with the
14 circumstances under which an Assistant District Attorney, from
15 the New York County DA's office is assigned to go to a police
16 precinct and assist or participate?

17 MR. RIVERA: Objection, objection.

18 Q (Continuing) in an investigation?

19 MR. JOSEPH: Objection.

20 MR. BURNS: Objection.

21 THE COURT: Objection sustained.

22 Q Was an Assistant District Attorney assigned to
23 assist in the investigation of this case?

24 MR. JOSEPH: Objection.

25 THE COURT: Overruled.

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1 Fairstein - People - Direct

2 A Yes.

3 Q And who was that person?

4 A You, Elizabeth Lederer.

5 Q In the course of the assignment of an assistant, of
6 an Assistant District Attorney, to this case --

7 MS. LEDERER: Withdrawn.

8 Q Where did you go when you arrived at the 20th
9 Precinct?

10 A I entered the precinct, identified myself to police
11 officer on the ground floor, near the entrance, and went
12 upstairs to the second floor Detective Squad Room of the
13 Precinct.

14 Q For what reason, in this case, was an Assistant
15 District Attorney assigned?

16 MR. JOSEPH: Objection.

17 MR. BURNS: Objection.

18 THE COURT: I'll allow it.

19 A To aid the Police Department in the investigation of
20 this case, and to participate in the making of video tape
21 statements, which the Police Department does not do without
22 our participation.

23 MR. JOSEPH: I would move to strike that.

24 THE COURT: I'll allow it to stand.

25 Q Would you describe the conditions that you observed

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1 Fairstein - People - Direct
2 at the 20th Precinct when you arrived on the evening of April
3 20th?

4 A There were --

5 MR. BURNS: Your Honor, I object.

6 I'm assuming she's being called as a rebuttal
7 witness, and this is beyond the scope of anything.

8 She wasn't called during trial.

9 THE COURT: Objection is overruled.

10 MR. BURNS: All right.

11 A When I arrived at 82nd Street, I observed say more
12 than 20 people outside the front of the stationhouse, on the
13 sidewalk, on either side of the door.

14 I entered, it's a uniformed officer in the lobby who
15 directed me upstairs.

16 As I entered the second floor area, there were two benches
17 right through the doorway, before you enter the large room.

18 There were a number of people, I presumed to be
19 civilians, seated there, and a lot of detectives, in plain
20 clothes, in the large squad room, some of whom I knew, who
21 greeted me, and took me into another room, where Ms. Lederer
22 and other police personnel were.

23 Q Did there come a time that you learned, on that
24 evening, that someone was at the 20th Precinct on behalf of
25 Yusef Salaam?

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1 Fairstein - People - Direct

2 A Yes, there did.

3 Q When, for the first time, did you learn that someone
4 was at the 20th Precinct in behalf of Yusef Salaam?

5 A It was about 11:30 that evening.

6 Q And how did you learn that?

7 A A detective in plain clothes came to me on the
8 second floor and said --

9 MR. BURNS: Objection, your Honor.

10 THE COURT: Overruled.

11 MR. BURNS: All right.

12 A Detective came to me on the second floor and said,
13 "There is a lawyer downstairs for Mr. Salaam."

14 Q Prior to that detective informing you of what you
15 have just told us, had you seen Yusef Salaam?

16 A No, I had not.

17 Q Did you know whether or not Yusef Salaam was in the
18 stationhouse at that time?

19 A I believe that I had been told that he was.

20 Q At that time, did you have any information at all
21 about how Yusef Salaam came to be in the stationhouse?

22 A No, I did not.

23 Q Do you recall who it was who told you that there was
24 an attorney downstairs inquiring about Yusef Salaam?

25 A I don't remember who the person was, but it was a

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1 Fairstein - People - Direct
2 male detective in plain clothes.

3 Q What did you do upon receiving that information?

4 A I asked that detective to find me the detective or
5 detectives who were speaking to Salaam, to come to me, and
6 give me information that I wanted.

7 Q And did the detective you said that to then leave
8 your presence?

9 A Yes, he did.

10 Q After he left, did there come a time that somebody
11 approached you and gave you some information?

12 A Yes.

13 Q And who was that who approached you?

14 A That was detective John Taglioni.

15 Q Approximately how much time had elapsed from the
16 time you first dispatched the detective to find out who was
17 talking to Salaam, before detective Taglioni approached you?

18 A I would estimate it at less than three minutes.

19 Q Would you tell us what, if anything, detective
20 Taglioni said to you when he arrived.

21 MR. BURNS: Objection. That's hearsay.

22 THE COURT: Overruled.

23 MR. BURNS: Jesus.

24 A Detective Taglioni came to me, he was carrying a
25 small brown covered steno pad.

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1 Fairstein - People - Direct

2 I asked him who was talking to Yusef Salaam.

3 He told me detective Tom McKenna, I believe detective
4 Rudy Hall.

5 And he said, he handed me the pad, and showed me the
6 notes of the conversation to that point.

7 Q Did you look at the pad that he handed you?

8 A Yes, I did.

9 Q Can you describe what you saw?

10 A Yes. I saw printed --

11 MR. BURNS: Objection. This is --

12 THE COURT: I'll let her say generally what she
13 saw.

14 What did you see?

15 THE WITNESS: I saw defendants --

16 MR. BURNS: Your Honor, may we approach?

17 THE COURT: Yes.

18 (At the bench, the following took place:)

19 MR. BURNS: Your Honor says -- you have already
20 permitted hearsay in, over my objection.

21 Now, with respect to the notations -- I'm
22 sorry.

23 You said you will permit her to describe.

24 THE COURT: What is she going to testify?

25 MS. LEDERER: Just essentially the information

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1 Fairstein - People - Direct

2 she saw, about a name and some writing.

3 All of this comes in because she, based on what
4 she saw, drew information that the defendant was 16.

5 She sees his name and date of birth.

6 And I might point out, this is an exhibit that
7 Mr. Burns introduced into evidence.

8 MR. BURNS: That has nothing to do with why
9 she's being called on rebuttal.

10 THE COURT: Wait a minute.

11 You will have an opportunity to respond. Let
12 her respond.

13 MS. LEDERER: It is in evidence, and this is
14 important evidence about the whole, about Yusef
15 Salaam, her actions with the mother.

16 This District Attorney, believing Yusef Salaam
17 was 16, and the actions she took based on that
18 belief.

19 This is how she came to that information.

20 THE COURT: The notes are in evidence.

21 MS. LEDERER: Yes.

22 Mr. Burns has the notes.

23 THE COURT: Do you have the notes that were
24 offered in evidence?

25 MR. BURNS: I have a photocopy. I have my

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1 Fairstein - People - Direct
2 exhibit, Exhibit Q.

3 THE COURT: Do you want it?

4 MS. LEDERER: I would be content to have her
5 just describe what she saw, and what she knew from
6 that.

7 THE COURT: Why don't you show an exhibit, as
8 long as it's in evidence, he put it in evidence, but
9 all of this stuff was discussed by your cross
10 examination of all these witnesses, allowing the
11 discussions that pertain to the age of Yusef.

12 That's how it all started.

13 MS. LEDERER: That's why she's called.

14 MR. BURNS: They're not talking about -- she's
15 called in here to dispute for the point of
16 determining when the police understood that he was
17 15, rather than 16.

18 There was no conversations relevant to that.

19 If she's going to talk about what she read on
20 the note, and the note said, on the notation, and
21 she read the note, and the note said that he was 16,
22 and that's the basis for understanding, that's their
23 position, and I'm not quarreling it.

24 THE COURT: I'll allow it.

25 MR. BURNS: If she's going to go into the rest,

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1 Fairstein - People - Direct

2 the context of the thing, I think that's totally
3 inappropriate at this point.

4 THE COURT: At this point, show her the
5 exhibit.

6 MS. LEDERER: I'll show her.

7 If she testifies this is what she read, and it
8 is in evidence, then I don't see that that's an
9 objection.

10 THE COURT: I don't either. Let's get it.

11 (In open court, on the record, the following
12 took place:)

13 MS. LEDERER: I ask if the witness could please
14 be shown People's 178 in Evidence.

15 (Handed up to and examined by the witness.)

16 DIRECT EXAMINATION CONTINUED

17 BY MS. LEDERER:

18 Q Looking at People's 178 in evidence.

19 Do you recognize that?

20 A Yes, I do.

21 Q And what do you recognize that to be?

22 A I recognize it to be a xerox copy of the page in the
23 steno book, first page in the steno book that I looked at that
24 evening.

25 Q And is that --

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1 Fairstein - People - Direct

2 MS. LEDERER: Withdrawn.

3 Q Is that what detective Taglioni showed you when he
4 brought you the steno book?

5 A Yes, it is.

6 Q When you looked at the steno book that detective
7 Taglioni brought you, a copy of which is before you, what
8 information, if any, did you learn about Yusef Salaam?

9 A I learned, in addition to his name, printed there,
10 his address, his date of birth, and what he had said to that
11 point to detective McKenna about his participation in the
12 attack in the park of the preceding evening.

13 Q What did you learn his date of birth to be?

14 A February, I believe it was the 27th, of 1973.

15 Q How long did you spend examining the steno book that
16 detective Taglioni brought you?

17 A Less than a minute. I just read it.

18 Q What, if anything, did you do after you examined
19 that steno notebook?

20 A I then returned it to detective Taglioni, and I
21 walked downstairs to the lobby of the building.

22 Q Did you see anyone in the lobby of the building?

23 A Yes.

24 Q And who did you meet in the lobby?

25 A I walked downstairs.

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1 Fairstein - People - Direct

2 There was a young man in a business suit standing where
3 the detective, who had informed me the lawyer was there, had
4 been left by the detective.

5 So, I walked over to the young man, and held out my hand.

6 I said, "My name is Linda Fairstein, I'm an Assistant
7 District Attorney."

8 He extended his hand and said that he was David Nocenti.

9 Q Let me interrupt you for just a moment.

10 Was there a uniformed officer in the lobby?

11 A Yes, there was.

12 Q And where was that uniformed officer?

13 A He was at a desk area, on the left, as one enters
14 the lobby.

15 Q What was his assignment in the lobby at that night?

16 A It was a security assignment, because of the large
17 numbers of people entering the building, because of this
18 investigation, and because of the fact that the press had
19 begun to gather at the building, there was a security officer
20 there to identify people who did or did not belong in the
21 building.

22 Q When you say "Did or did not belong," were the media
23 permitted inside the building?

24 A Not at all.

25 Q And were you, or did you see anybody else inform

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4925

1 Fairstein - People - Direct
2 that uniformed officer about the status of the investigation
3 that was being conducted?

4 A No. He was not a part of the investigation.

5 Q Did you ever inform that officer that Yusef Salaam
6 was in the building?

7 A No.

8 Q Did anyone, in your presence, ever inform him that
9 Yusef Salaam was present in the stationhouse?

10 A No.

11 Q Would you describe how the conversation --

12 MS. LEDERER: Withdrawn.

13 Q The person that you introduced yourself to, and who
14 was introduced to you, what did you learn his name to be?

15 A David Nocenti.

16 Q And did you have a conversation with him at that
17 time?

18 A Yes, I did.

19 Q Would you describe for the members of the jury what
20 that conversation was?

21 A After the introductions, I said to him, "I
22 understand that you are a lawyer."

23 He said, "Yes, I am."

24 I said, "Are you -- you've been retained by the family."

25 He said, "No. I'm here on behalf of the Salaam family."

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1 Fairstein - People - Direct

2 I said, "As a lawyer?"

3 He said, "No. I'm a member of the family. I'm part of
4 the family."

5 And I said, "I don't understand.

6 You told the police officer you were a lawyer."

7 He said, "No. I'm here on behalf of the family."

8 And I said, "How are you related to Mr. Salaam?"

9 And he said, "Well, I am not actually a member of the
10 family. I'm a friend of the family."

11 Shall I continue?

12 Q Please continue.

13 A I said, you said you were a lawyer, that's why the
14 police let you in. Who do you work with? Do you have your
15 own office? Are you with a law firm? And he said, no, I'm an
16 Assistant United States Attorney. I work for the government,
17 in the Eastern District of New York.

18 Q Did you have a conversation at that point about the
19 fact that he was employed by the United States Attorney's
20 Office?

21 A Yes, we did.

22 Q What was that conversation?

23 A I said to him, I'm very surprised that you're here.
24 You know, you can't practice law as an individual when you
25 work for the United States Attorney's Office. You can't give

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1 Fairstein - People - Direct

2 legal advice. You can't practice law. You don't belong here.

3 He said, I know that, but I'm not here in that capacity.

4 I'm here as a friend of the family.

5 I said, does your supervisor know that you're here?

6 He said, no. I said, I would like to call him and
7 discuss this with him. He said, please don't do that. My
8 office doesn't know I'm here. I know I'm not supposed to be
9 here.

10 I said, you understand you can't give legal advice. You
11 told the police officers you were a lawyer.

12 I asked him for the phone number of his boss. His name
13 is Mr. Maloney. And he said he didn't have that. I asked him
14 for the phone number of his immediate supervisor. The name of
15 his immediate supervisor, he said, his name is Mr. Bagliter
16 (phonetic). I said, do you have Mr. Bagliter's phone number.

17 He said, I have, but I can't give it to you, you can't
18 call him.

19 I said, why can't I call him. He said, because of his
20 holiday. I said, do you mean because tonight is Passover.
21 It's my holiday too, I'm also Jewish. I want his phone
22 number. It's the end of the two day holiday, it's almost
23 midnight.

24 Q Did he give you a phone number or business card at
25 that time?

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4928

1 Fairstein - People - Direct

2 A He gave me his own business card when he identified
3 himself as a United States Attorney.

4 Q Did you then go to a pay phone or telephone to make
5 a phone call?

6 A Yes, I did.

7 MR. BURNS: Object to leading.

8 THE COURT: Yes, let her testify.

9 Q Where was David Nocenti when you went to make a
10 phone call?

11 A The telephone is right in the lobby area of that
12 precinct, on the wall, and it is between the front door and --
13 ten or 12 feet into the precinct where that uniformed officer
14 is. And I went to the phone on the wall, my back was to Mr.
15 Nocenti.

16 The last I saw of him, I believe he was walking to the
17 door of the precinct.

18 Q Did you call Mr. Nocenti's supervisor at that time?

19 A No, I didn't have the phone number.

20 Q How long did the conversation with Mr. Nocenti last,
21 the conversation you just described?

22 A It lasted almost, oh, between ten and 15 minutes.
23 It was more detail than I just told you.

24 Q At the time that you were first informed there was
25 someone downstairs inquiring, an attorney inquiring of Yusef

T2-SC-TS

4929

1 Fairstein - People - Direct

2 Salaam, about what time was that?

3 A Approximately 11:30.

4 Q And approximately how much time elapsed before you
5 went to the first floor and introduced yourself to Mr.
6 Nocenti?

7 A I would estimate less than five minutes.

8 Q And approximately how long did this conversation
9 last?

10 MR. BURNS: Asked and answered, your Honor.

11 THE COURT: Objection sustained.

12 Q At any time during that conversation did David
13 Nocenti -- did you ask David Nocenti for his permission to
14 speak to Yusef Salaam?

15 A No, I did not.

16 Q After you went to the phone booth, did you see where
17 David Nocenti was?

18 A I know I saw him outside the glass doors of the
19 precinct.

20 Q Did there come a time where you met someone else on
21 behalf of the Salaam family?

22 A Yes.

23 Q Will you please tell us how that came about?

24 A Yes. Within another five or so -- I made a phone
25 call, not to his office, but I made a phone call. When I hung

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1 Fairstein - People - Direct

2 up that phone call, shortly before midnight, Mr. Nocenti came
3 into the precinct again with three other people.

4 Q And did you have a conversation with Mr. Nocenti and
5 those other people at that time?

6 A Yes.

7 Q Will you describe what happened when those people
8 came into the precinct?

9 A Yes. Mr. Nocenti approached me and said I would
10 like you to meet Mrs. Salaam, Yusef Salaam's mother. He may
11 have used her first name, as well.

12 I introduced myself to her. She introduced herself to
13 me. And there was another woman and man with her, to whom I
14 was not introduced.

15 Q Did you have any conversation with Mrs. Salaam at
16 that time?

17 A Yes, I did.

18 Q What, if anything, did she say to you?

19 A She told me she wanted to see her son.

20 Q Did you respond to that when she said that to you?

21 A Yes, I did.

22 Q What, if anything, did you say to her?

23 A I told her her son was upstairs with detectives, he
24 was being interviewed by detectives.

25 MS. SHERON SALAAM: You're lying, you're lying.

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4931

1 Fairstein - People - Direct

2 Why are you saying those things?

3 THE COURT: Remove that woman from the room.

4 MS. SHERON SALAAM: You're lying, you're lying.

5 He's innocent.

6 (Whereupon, Mrs. Sheron Salaam left the
7 courtroom.)

8 THE COURT: Ladies and gentlemen of the jury,
9 you are to totally disregard that type of comment.
10 Base your determination of this case solely on the
11 evidence that's presented here. That type of
12 interruption is inappropriate and you are to
13 disregard it entirely.

14 Go ahead.

15 DIRECT EXAMINATION CONTINUED

16 BY MS. LEDERER:

17 Q When Ms. Salaam said to you she wanted to see her
18 son, did you respond?

19 A Yes, I did.

20 Q What did you say?

21 A I told her that her son was upstairs being
22 questioned by detectives and that when they were done speaking
23 with him, she would be given the opportunity to be with him
24 and to see him.

25 Q Did you make immediate arrangements at that time for

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4932

1 Fairstein - People - Direct

2 Mrs. Salaam to see Yusef Salaam?

3 A No, I did not.

4 Q And why not?

5 A Because he was 16 years old.

6 MR. BURNS: Objection, your Honor. This is
7 self serving.

8 THE COURT: I'll allow it.

9 Q I believed him to be 16 years old and she did not
10 have a legal right at that point, even though she requested
11 it, to see her son.

12 Q After you told her the police were speaking to him
13 and you would make arrangements for her to see him when they
14 are finished, what, if anything, happened?

15 A I told her that I would be happy to answer any
16 questions she had, to try and make her and her friends
17 comfortable until the procedures were done. And that if she
18 had any questions for me, I would answer them.

19 She told me she wanted to speak to Mr. Nocenti without me
20 present. I said, that was fine, and she and the other two
21 people and Mr. Nocenti left me.

22 Q At that conversation you just described, did you
23 learn the name of the other two people, the man and woman who
24 were with Mrs. Salaam?

25 A No, I did not.

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1 Fairstein - People - Direct

2 Q Did you see them leave the stationhouse at that
3 time?

4 A Yes. The four of them walked out the front door.

5 Q And did there come a time they returned into the
6 stationhouse?

7 A Yes.

8 Q Approximately how much time after you saw them leave
9 did any of those people come into the station house?

10 A I place it close to 12:15 when they returned inside
11 the station.

12 Q When you say they returned, who came into the
13 stationhouse at about 12:15?

14 A Mrs. Salaam and the woman and man she entered with
15 before. Mr. Nocenti was not with them at that time.

16 Q Did you have a conversation with Mrs. Salaam at that
17 time?

18 A Yes.

19 Q And what, if anything, did you say to her and what,
20 if anything, did she say to you?

21 A She said she wanted to speak to me. I said I would
22 be happy to speak to her and answer her questions. We could
23 go into a larger room where we could sit down, but I told her
24 I needed to know who the people were with her because I
25 explained to her we had so many people coming into the

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4934

1 Fairstein - People - Direct

2 stationhouse, so many witnesses being spoken to, family
3 members present and also a problem with the press arriving at
4 the precinct, that I asked her to tell me -- to introduce me
5 to the other two people with her and tell me who they were.

6 Q Did she introduce those people to you at that time?

7 A She refused to do that.

8 Q Were non-family members of the people -- of the
9 young men being questioned, were non-family members permitted
10 in the stationhouse?

11 MR. BURNS: Objection, your Honor.

12 THE COURT: Objection sustained.

13 Q Did you ask Ms. Salaam the names of the two people
14 she was with at that time?

15 A Yes, I did.

16 Q And what did she say?

17 A She said, I won't tell you. She said, this woman is
18 my cousing and the gentleman is her fiance.

19 Q Did you have any further conversation at that time
20 about those two people?

21 A Yes. I said I would be happy to talk to her in the
22 presence of her cousin, but the gentleman was not part of the
23 immediate family, I would prefer, since he was not identified
24 to me, I would prefer he wait outside.

25 Q And did the gentleman then leave?

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1 Fairstein - People - Direct

2 A Yes.

3 Q Did you then have a conversation with either Mrs.
4 Salaam or the person she identified as her cousin?

5 A Yes.

6 Q Where did that conversation take place?

7 A I took them out of the lobby to a more private area,
8 which is a large room in front of the desk, sergeant's desk,
9 where there are also seats. And I took them inside. And the
10 two women and I sat down in this room.

11 Q Were there any detectives present with you at that
12 time?

13 A I don't believe there were. There were a lot of
14 detectives and two supervisors I had been talking to
15 immediately before at the doorway of that room, but they were
16 not in our circle.

17 Q And did you have a conversation with Mrs. Salaam and
18 her cousin at that time?

19 A Yes, I did.

20 Q What, if anything, did Mrs. Salaam say to you and
21 what, if anything, did you say to her?

22 A She asked me where her son was. Again, I told her
23 he was upstairs with the detectives and he was being
24 questioned.

25 I said -- she knew, she expressed to me about the attacks

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1 Fairstein - People - Direct
2 in the park the preceding evening. She repeated to me, she
3 wanted to see her son and said to me, he is a minor, I want to
4 see him. And I, again, repeated, she would be able to see him
5 when the police had finished asking him questions. They begun
6 the process and I didn't expect it to be too much longer.

7 Q In the sentence you just repeated to us, was that
8 the word Ms. Salaam used, minor?

9 A That's exactly the word she used.

10 Q In that sentence to you, did she specifically
11 identify the age, beyond saying a minor?

12 A No, she did not.

13 Q After she said what you just described, did you
14 respond in any way?

15 A I repeated and went on with explaining what was
16 happening, why there was some many people in the stationhouse,
17 that a great number of young men had been brought in and were
18 being talked to around the stationhouse.

19 She next said to me, I want to see my son now, he's 15
20 years old.

21 Q Prior to her telling you at that point that he was
22 15 years old, had anybody else you had spoken to on that
23 evening told you that Yusef Salaam was 15 years old?

24 A That is the first time I heard he was 15 years old.

25 Q What did you do when Mrs. Salaam said that?

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1 Fairstein - People - Direct

2 A I expressed surprise to her and said the information
3 I have is that he is 16.

4 Q And what, if anything, did she say?

5 A She said, I'm his mother, he's 15 years old.

6 I said, do you have any kind of identification, birth
7 certificate, records, anything that would prove he's 15. She
8 said, of course I do, but they are not here. They are at home.

9 I said, fine, as long as we have something that could
10 support that he's 15 because our information was he was 16.

11 Q What, if anything, did you do after she said that to
12 you?

13 A I asked the supervisors who were behind me, captain
14 Rowe and sergeant Cleve to go upstairs and immediately get the
15 detectives who had either brought Yusef Salaam into the
16 stationhouse and the ones who were talking to him, to come
17 down so that we could straighten out their information about
18 him being 16 with what Mrs. Salaam was saying about him being
19 15.

20 Q After you dispatched someone to go and get the
21 detectives, did you remain where you were with Mrs. Salaam and
22 her cousin?

23 A I remained in that room talking to the supervisors.
24 I believe she and her cousin were seated in that area about
25 ten or 15 feet away from me.

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1 Fairstein - People - Direct

2 Q Did there come a time a detective came from upstairs
3 and came to the first floor where you were?

4 A Yes.

5 Q Who was that detective?

6 A Detective John Taglioni.

7 Q What, if anything, did you see detective Taglioni
8 do?

9 A He came over to where Mrs. Salaam was standing. I
10 said, why don't you tell Mrs. Salaam why you believe Yusef is
11 16, and let her explain to you what she just told me, that
12 he's 15.

13 Q Were you present during the conversation with
14 detective Taglioni and Mrs. Salaam?

15 A I didn't participate in it. I was a step away
16 because I didn't have the information they claimed to have
17 had.

18 Q Did you hear that conversation?

19 A Yes, I did.

20 Q What did detective Taglioni tell Mrs. Salaam?

21 A Detective Taglioni said, Yusef had shown him a bus
22 pass with his name printed on it and with the date of birth
23 that had been copied onto the steno pad, and that the pass
24 with that date of birth showed him to be 16 years old.

25 Q What, if anything, did Mrs. Salaam say?

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1 Fairstein - People - Direct

2 A She just kept repeating, he's my son, I'm his
3 mother, he's 15.

4 Q How long did that conversation last?

5 A A minute, less than a minute.

6 Q And what, if anything, happened at the end of that
7 conversation?

8 A I said to the supervisors and Taglioni, that we had
9 better stop the interrogation now and accept her word. She
10 said she could back it up with documents at a later point that
11 said he was 15. Taglioni went immediately up to the
12 detectives and ceased the questioning and allowed Mrs. Salaam
13 to see her son.

14 Q And did detective Taglioni leave your presence on
15 the first floor?

16 A Yes, he did.

17 Q Approximately what time was it you had that
18 conversation with detective Taglioni?

19 A Place it at about 12:20.

20 Q After detective Taglioni had the conversation you
21 just described with Mrs. Salaam, did you see what, if
22 anything, Mrs. Salaam and her cousin did?

23 A No.

24 Q Where were you after detective Taglioni went
25 upstairs?

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1 Fairstein - People - Direct

2 A I was in the lobby area, outside the large room,
3 where I had been with Mrs. Salaam, at the foot of the
4 staircase.

5 Q Did there come a time you had another conversation
6 with David Nocenti?

7 A Yes, there did.

8 Q And do you recall when that conversation was?

9 A It was certainly after 12:20 and before 12:30.

10 Q What, if anything, did you say to David Nocenti at
11 that time and what, if anything, did he say to you?

12 A He was back in the lobby of the precinct. I think
13 he was again talking with Mrs. Salaam, had been talking, I saw
14 them together. And he came over to me and I believe she had
15 told him that I had said she was going to be allowed to see
16 her son, and he asked me if that was right, and I said yes. I
17 told the detective to stop talking to Mr. Salaam and allow his
18 mother to see him.

19 Q Did there come a time you had another conversation
20 with Mrs. Salaam?

21 A Yes.

22 Q And what time was that conversation?

23 A That was exactly 12:30.

24 Q And what was that conversation?

25 A She approached me again and said we want to get a

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1 Fairstein - People - Direct

2 lawyer, we're going to get a lawyer for my son.

3 Q What, if anything, did you do when she told you
4 that?

5 A I took a piece of paper and wrote that time, 12:30,
6 and that fact, Mrs. Salaam had informed me she wanted to get a
7 lawyer for her son, on a piece of paper.

8 Q Did you have any further conversation with Sheron
9 Salaam at that time?

10 A No, I did not.

11 Q Did you have any conversation with her after that
12 conversation?

13 A No, I did not.

14 Q How much time went by from the conversation in which
15 she told you that Yusef Salaam was 15 years old until the
16 conversation she said she wanted an attorney?

17 A Ten minutes, at most.

18 Q Did there come a time you left the 20th Precinct?

19 A Yes.

20 Q And approximately what time did you leave the 20th
21 Precinct?

22 A Between 12:35 and 12:45.

23 Q And where did you go at that time?

24 A We went to the 24th Precinct, on 100th Street.

25 Q And who did you go with?

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4942

1 Fairstein - People - Direct

2 A I went with you, yourself, and one or two
3 detectives, who drove us there.

4 Q In any of the conversations you had with Sheron
5 Salaam that night, did she ever mention to you anything with
6 respect to a purple or blue health card?

7 A No, she did not.

8 Q Did she ever mention anything to do with a Mt. Sinai
9 health card?

10 A No, she did not.

11 Q Did you ever that night hear from anyone, from any
12 detective, from Sheron Salaam or from any family member, or
13 from David Nocenti, about a blue or purple health card?

14 A No, I did not.

15 Q In any conversation you had with Sheron Salaam, did
16 you ever use the expression, or words to the effect, phony
17 identification or phony ID?

18 A No, I did not.

19 Q Did you ever make any reference to anything as fake
20 ID?

21 A No, I did not.

22 Q That night, did you ever see Yusef Salaam's wallet?

23 A No. I did not know he had one.

24 Q Did you ever have any conversation with any
25 detectives about Yusef Salaam's wallet or keys?

T2-SC-T5

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1 Fairstein - People - Direct

2 A No, I did not.

3 Q Did you ever tell Sheron Salaam, words to the
4 effect, that I or we don't need your permission to talk to
5 Yusef Salaam?

6 A No, I did not.

7 Q At any time on that night, or next day, did you
8 return to the 20th Precinct?

9 A No, I did not.

10 Q During the time that you were speaking with Sheron
11 Salaam on the first floor of the 20th Precinct, was detective
12 Sheehan present?

13 A No.

14 Q When you went to the 24th Precinct, did you have
15 anything to do with the videotaped statement or interviews of
16 Antron McCray or Raymond Santana?

17 MR. JOSEPH: Objection.

18 THE COURT: I'll let her answer.

19 A I had nothing to do with the work in the room. I
20 had to do only with keeping order outside.

21 MR. JOSEPH: Objection.

22 THE COURT: I'll allow that.

23 Q When you say keeping order outside, what do you
24 mean?

25 A The Youth Room in which the videos were made is a

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1 Fairstein - People - Direct
2 small room, which was opened to the top of the rest of the
3 precinct. There was no -- not an enclosed space. And so while
4 the team was working in the video room, regular police
5 business was going on on the ground floor of the stationhouse.
6 Crews of police officers were coming in for roll call and
7 assignment, victims of other crimes were coming in, the
8 typists were working, the soda machines were being used, and
9 several of us were trying to keep order and quiet so that the
10 proceedings within the Youth Rooms could go on uninterrupted.

11 Q After Sheron Salaam told you she wanted her son to
12 have a lawyer at 12:30, did you ever say to her at that time,
13 we'll stop questioning him now?

14 A No.

15 Q Had you directed that the questioning stop prior to
16 her telling you that she wanted a lawyer?

17 A As soon as I heard that he was 15 years old, I
18 directed the questioning be stopped.

19 Q Were you present at the 20th Precinct when Mrs.
20 Salaam was given an opportunity to visit with her son?

21 A No, I was not.

22 Q At what time was Yusef Salaam arrested?

23 A 12:30 that evening.

24 Q Is that in the morning of April 21st?

25 A That is correct.

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1 Fairstein - People - Direct

2 Q Thank you.

3 MS. LEDERER: I have nothing further.

4 CROSS EXAMINATION

5 BY MR. BURNS:

6 Q Good morning, Ms. Fairstein.

7 A Good morning, Mr. Burns.

8 Q Ms. Fairstein, when you went to the 20th Precinct,
9 had Ms. Lederer arrived before you?

10 A Yes, she had.

11 Q What time did you send Ms. Lederer to the 20th
12 Precinct?

13 MS. LEDERER: Objection.

14 THE COURT: I'll let her answer.

15 A I didn't send her there.

16 Q What time did you assign her in relation to this
17 investigation?

18 A I believe it was around 9:15 on the morning of April
19 20th.

20 Q Do you know what time she left to go to the 20th
21 Precinct?

22 A More or less, yes.

23 Q What time was that?

24 A I believe it was about eight o'clock that evening.

25 Q Now, had -- did the police department or any

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1 Fairstein - People - Cross - Burns
2 representatives of the police department ask for your
3 assistance in connection with this investigation?

4 MS. LEDERER: Objection.

5 THE COURT: I'll allow it.

6 A Yes, they did ask for our assistance.

7 Q At what point was that?

8 MS. LEDERER: Objection.

9 THE COURT: I'll allow it.

10 A They first --

11 Q No. When was the first time they asked for the
12 assistance of the District Attorney's Office in relation to
13 this investigation?

14 A When I was called at nine o'clock on the morning of
15 the 20th, I was told I would be asked later in the day for
16 assistance.

17 Q You were called by a police department
18 representative?

19 A That's right.

20 Q And was it a person who was in charge of the
21 investigation?

22 MS. LEDERER: Objection.

23 THE COURT: I'll let her answer.

24 A It was one of the supervising officers, yes.

25 Q When you arrived at eight o'clock -- I'm sorry, 8:30

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1 Fairstein - People - Cross - Burns

2 ---

3 A A little after 8:30.

4 Q -- Ms. Lederer was already there, is that right?

5 A Yes.

6 Q And you went inside and went up to the 2nd floor
7 detective room?

8 A Yes, I did.

9 Q Ms. Lederer was there?

10 A Yes, she was.

11 Q Had any video begun?

12 A No.

13 Q Had any questioning or talking to people, had any of
14 that begun at the time that you arrived?

15 MS. LEDERER: Objection.

16 THE COURT: If she knows, I'll let her answer.

17 A Yes, it had.

18 Q At any time prior to your arrival, did you have
19 occasion to go to Metropolitan Hospital?

20 A No, sir.

21 Q And did you have an occasion to speak to the
22 officers who had -- the officers who had discovered the body
23 of the female jogger?

24 MS. LEDERER: At what point?

25 Q Prior to your arrival at the precinct, at

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1 Fairstein - People - Cross - Burns
2 approximately 8:30 in the evening of the 20th.

3 A Prior to my arrival, no.

4 Q Incidentally, the telephone call that you received
5 about nine o'clock, that was in relation to asking the
6 District Attorney's Office for assistance in connection with
7 the investigation relative to the female jogger?

8 A In part, yes.

9 Q You're the -- were any other units of the District
10 Attorney's Office called?

11 MS. LEDERER: Objection.

12 Q To your knowledge?

13 MS. LEDERER: Objection.

14 THE COURT: I'll allow it.

15 A Yes.

16 Q Well, you're the Head of the Sex Crimes Unit, right?

17 A Yes.

18 Q Was there any other sex crime that was being
19 investigated, in connection with Central Park?

20 MS. LEDERER: Objection.

21 THE COURT: Sustained.

22 Q Your participation, as the Chief of the Sex Crimes
23 Unit, when you were called, wasn't that in connection with the
24 investigation relative to the, to the female jogger?

25 A Yes.

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1 Fairstein - People - Cross - Burns

2 Q Now, between 8:30 and 11:30, did you participate in
3 any questioning of any individuals?

4 A I questioned police officers.

5 Q Just officers.

6 A Right.

7 Q Now, at 11:30, you say, is the first time you --

8 MR. BURNS: Withdrawn.

9 Q At what point in time -- at what point in time did
10 you -- were you aware of the fact that Yusef Salaam was in the
11 20th Precinct?

12 A I have -- I would put it in the 11 o'clock period,
13 but it was between 11 and 11:30.

14 Q And do you have any -- can you tell the Court who
15 told you, or how you came by that information?

16 A I was in a room with a lot of police officers, and,
17 as different events unfolded that evening, because there were
18 many participants, and a lot of police activity, people would
19 enter the room to tell some of the supervisors what was going
20 on.

21 Q And I believe -- and you were functioning as a
22 supervisor?

23 A No. I'm talking about police supervisors.

24 Q But you were working along with the supervisors,
25 were you not?

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1 Fairstein - People - Cross - Burns

2 MS. LEDERER: Objection.

3 THE COURT: I'll let her answer it.

4 A I was not supervising a police investigation, no.

5 I was there to assist, and to assist Ms. Lederer, if I
6 could be of any use.

7 Q Well, in the course of your assisting with the
8 investigation, while you were on the second floor squad room,
9 someone came in and mentioned Yusef Salaam, is that it?

10 A Yes.

11 Q And was anything said about his age at that time?

12 A No.

13 Q At that point, you didn't have any -- you didn't
14 know how old he was?

15 A No.

16 Q Did you know that he was a teenager or older? Did
17 you know that?

18 A I didn't know anything.

19 Q Nothing at all?

20 And then, at 11:30, you had a call, that there was a
21 lawyer downstairs?

22 A Not a call. Someone came in.

23 Q And told you?

24 A And said to me, particular.

25 Q You don't know who that person was?

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1 Fairstein - People - Cross - Burns

2 A No.

3 Q When you say you don't know, could it have been
4 detective Taglioni?

5 MS. LEDERER: Objection.

6 THE COURT: I'll let her answer it.

7 A I know it was not detective Taglioni.

8 Q Because you specifically remember detective Taglioni
9 coming, right?

10 A With the book.

11 Q Is that right?

12 Now, did you send detective Taglioni for the book?

13 A No, no.

14 I asked the person who alerted me to the fact that a
15 lawyer was there.

16 Q So, you didn't send detective Taglioni for the book?

17 A No.

18 Q Detective Taglioni then comes to you with a memo
19 book?

20 A That's right.

21 Q Is that right?

22 You had conversation with detective Taglioni at that
23 time?

24 A Yes, yes.

25 Q At that time, did you know that detective Taglioni,

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1 Fairstein - People - Cross - Burns
2 himself, was the arresting officer at that particular point in
3 time?

4 MS. LEDERER: Objection.

5 THE COURT: Objection sustained.

6 Q At the time when --

7 MR. BURNS: At the time that Taglioni came with
8 the book.

9 THE COURT: That's not the objection. The word
10 is arrest.

11 MR. BURNS: Withdrawn, withdrawn, I'll
12 withdraw that question.

13 Q At the point that detective Taglioni, detective
14 Taglioni came to you, came to you with the book, did you know
15 that it was detective Taglioni who was the detective who had
16 brought him into the precinct?

17 A No, I did not.

18 Q At any time while you were examining the book, was
19 -- did detective Taglioni tell you that he was the detective
20 who had brought Yusef in?

21 A No, he didn't.

22 Q And that, and that his coming to you with the book,
23 that book, you're looking at the book, that was about a
24 minute?

25 A I said the whole thing was probably less than two

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1 Fairstein - People - Cross - Burns
2 minutes.

3 Two for him to get to me, and --

4 Q No.

5 I'm talking about when Taglioni came to you with the
6 book, and you're looking at the book, and you giving the book
7 back to him, and him leaving, that took about a minute?

8 A Took, for me to read a whole written page of steno
9 notes, that was the first complete page, and perhaps the top
10 of the second page, a minute.

11 Q A minute, right? And then he left?

12 A That's right.

13 Q And then, at that point, all you knew was, insofar
14 as David Nocenti was concerned, was that he was an attorney
15 downstairs.

16 A On behalf of Yusef Salaam, yes.

17 Q Incidentally, did you, in the course of your
18 assisting the police in their investigation, was it understood
19 by police officers that, that if an attorney came to the
20 precinct, you were to be notified?

21 MS. LEDERER: Objection.

22 THE COURT: Objection sustained as to form of
23 the question.

24 Q Do you know how it was that a police officer and
25 plain clothes came to you and told you that an attorney was

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1 Fairstein - People - Cross - Burns

2 downstairs, do you know?

3 A I have no idea.

4 Q And you went downstairs?

5 A Yes.

6 Q And when you went downstairs, were you alone, or
7 were you accompanied by anybody?

8 A I believe sergeant, captain Earl and sergeant Cleve
9 were with me when I got the information.

10 I think they followed me downstairs, and might have been
11 behind me, but I don't remember them participating in my
12 conversation with Mr. Nocenti.

13 Q And isn't it also true that you don't remember that
14 they were actually present? Isn't that also true?

15 MS. LEDERER: Objection as to form.

16 THE COURT: Yes, objection sustained as to
17 form.

18 Q You don't remember whether they were actually
19 present?

20 And I'm referring to Captain Rowe or sergeant Cleve.
21 Isn't that true?

22 A I believe that they came downstairs.

23 I don't remember -- I don't remember if they were
24 actually there when I spoke to Mr. Nocenti.

25 Q That's my question.

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1 Fairstein - People - Cross - Burns

2 A Okay.

3 Q You don't actually --

4 A That's right.

5 Q Remember that.

6 A That's right.

7 Q And the conversation -- what time did you get
8 downstairs?

9 A Five or six minutes, I believe, after I was told Mr.
10 Nocenti was there.

11 Q And how long --

12 MR. BURNS: Withdrawn.

13 Q The conversation that you had with David Nocenti,
14 that took about ten to 12 minutes?

15 A Ten to 15 minutes, yes.

16 Q Ten to 15?

17 A Mmm --mm.

18 Q And, after that conversation, you then went to the
19 precinct, to the telephone?

20 A Yes.

21 Q And David Nocenti left your presence?

22 A That's right.

23 Q And while you were on the phone, you didn't see
24 David Nocenti?

25 A No, I didn't.

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1 Fairstein - People - Cross - Burns

2 Q When you went down and spoke to David Nocenti, he
3 told you that he was there on behalf of Yusef?

4 A Yes.

5 Q Is that the language he used?

6 A He --

7 Q No.

8 That's a yes or no, Ma'am. The question calls for a yes
9 or no answer.

10 MS. LEDERER: Your Honor, I would ask you to
11 instruct the --

12 MR. BURNS: Your Honor --

13 THE COURT: Wait. Everybody stop talking.
14 Read the question back.

15 (Requested testimony read.)

16 THE COURT: Are you asking, is that the exact
17 language that he used?

18 MR. BURNS: Yes.

19 THE COURT: Answer the question.

20 A Yes, he repeatedly said, "In behalf, I'm here on
21 behalf of Yusef Salaam and on behalf of the Salaam family."

22 Q And I take it then that he told you he was an
23 attorney, and he told you he worked for the US Attorney's
24 Office in the Eastern District?

25 A Yes.

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1 Fairstein - People - Cross - Burns

2 Q And he was there in behalf of the family as a
3 friend, in his capacity as a friend, in words, in sum and
4 substance, isn't that what he said?

5 That's not what he said in sum and substance?

6 A He said he was there in behalf of Yusef Salaam.

7 I had to draw the everythings out of him with
8 questioning.

9 Q But that's what he said in sum and substance, isn't
10 that true?

11 A Yes.

12 Q And he was not permitted to see Yusef?

13 A That's right.

14 Q And he left the precinct, and you went to the
15 telephone?

16 A I'm not sure where he was.

17 I thought he was either in the vestibule, as I could see
18 through the glass doors. He may have gone out.

19 Q You couldn't see where he went when you were on the
20 phone?

21 A No.

22 Q And the next time you saw him, he was with someone
23 who he introduced as Mrs. Salaam?

24 A That's right.

25 Q And what time was that?

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1 Fairstein - People - Cross - Burns

2 A That was between 11:50 and midnight.

3 Q Now, when you say "between 11:50 and midnight,"
4 you're saying it could have been as early as 11:50, but no
5 later than midnight?

6 MS. LEDERER: Objection.

7 Q Is that --

8 THE COURT: I'll allow it.

9 Q Is that what you mean?

10 A I believe so.

11 Q And how long did you --

12 MR. BURNS: Withdrawn.

13 Q And he introduced Mrs. Salaam to you?

14 A Yes, he did.

15 Q Now, she was accompanied at that time by a female
16 and male?

17 A right.

18 Q They were adults?

19 A They were.

20 Q And she told you at that time that she wanted to see
21 her son?

22 A That's right.

23 Q You didn't hear her say anything about Yusef being
24 15 at that time?

25 MS. LEDERER: Objection.

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1 Fairstein - People - Cross - Burns

2 THE COURT: I'll allow it.

3 MS. LEDERER: Objection.

4 THE COURT: I'll allow it.

5 A She did not say he was 15.

6 Q Did you hear her say anything about him being a
7 minor at that time?

8 MS. LEDERER: Objection as to form.

9 THE COURT: Yes, objection sustained.

10 Q Did you hear Mrs. Salaam say anything about Yusef
11 being a minor at that time?

12 MS. LEDERER: Objection as to form.

13 THE COURT: Sustained.

14 Q Did you tell --

15 MR. BURNS: Withdrawn.

16 Q Is it your testimony then that she came in and she
17 asked -- she in -- she gave you her name and said she wanted
18 to see her son, is that correct?

19 MS. LEDERER: Objection.

20 THE COURT: I'll allow it.

21 Q Is that correct?

22 A Yes, she asked to see her son.

23 Q And you introduced yourself to her?

24 A Yes, I did.

25 Q And this conversation took place in the room beyond

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1 Fairstein - People - Cross - Burns
2 the vestibule that you passed through in the 20th Precinct?
3 A I call it a, the lobby area, right in front of the
4 telephone, and a uniformed guard.
5 Q This took place there?
6 A Yes.
7 Q And were you alone at that time, or were you
8 accompanied by anyone?
9 A When they approached me, I was, I was talking to
10 other officers. I was rarely alone.
11 I would separate myself to have conversations, but I was
12 not standing there alone.
13 Q Can you tell us who you were talking to at that
14 time?
15 A Captain Rowe and sergeant Cleve.
16 Q And when you went and spoke to her, were captain
17 Rowe and sergeant Cleve with you?
18 A I don't know if they were behind me or not.
19 They were not participants in the conversation.
20 Q Well, do you know whether they were actually
21 present, or you don't remember whether they were actually
22 present.
23 A They were present, Mr. Burns, in the sense that the
24 two gentlemen and I were standing talking.
25 I then turned around when Mr. Nocenti approached, and

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1 Fairstein - People - Cross - Burns
2 asked to talk to me.

3 So, I didn't move.

4 The two men I was talking to were right behind me, but I
5 began the other conversation.

6 MR. BURNS: 4458.

7 Q At a prior hearing, do you recall being asked this
8 question and giving this answer?

9 "At the time that you had this conversation -- "

10 "QUESTION: At the time that you had this conversation
11 with Mrs. Salaam, who else was immediately present?"

12 "ANSWER: The people in her group, and, if anyone was
13 with me, it would have been captain Rowe or sergeant Cleve,
14 but I don't remember that they were actually present."

15 MS. LEDERER: Your Honor, I object.

16 Q Did you give that answer to that question?

17 MS. LEDERER: There's no inconsistency.

18 THE COURT: Well, I'll let her answer, if she
19 gave that answer to that question.

20 A I did.

21 Q But you don't remember whether they were actually
22 present during that conversation with Mrs. Salaam?

23 A I think it's the same answer I'm giving you now.

24 They -- I don't know if they could hear it or not. I had
25 been talking to them.

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1 Fairstein - People - Cross - Burns

2 They were present a couple of feet away.

3 I don't know if they were present for the conversation.

4 Q And that conversation lasted how long?

5 A That conversation, my first conversation with Mrs.
6 Salaam and Mr. Nocenti?

7 Q Yes.

8 A Two minutes.

9 Q And, and it was during that conversation, she said
10 she wanted to see her son, right?

11 A That's correct.

12 Q And that conversation ended in two minutes?

13 A Yes.

14 Q And it ended with her leaving the precinct?

15 A She said to me she would like to speak to Mr.
16 Nocenti without me being present. I said that was fine.

17 Q Was it at that time when you asked her who the other
18 people were in her group?

19 A I'm not sure if I did.

20 I know I did, when she came back with them and wanted to
21 ask me questions in their presence.

22 I may also have said it the first time when I introduced
23 myself to her, but I have no recollection of that at this
24 point.

25 Q But when he came back -- David Nocenti came back

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1 Fairstein - People - Cross - Burns
2 into the precinct with her, and there were other people with
3 her, isn't that correct?

4 A Yes.

5 Q Were you asked, at the same hearing, this question,
6 and did you give these answers?

7 MS. LEDERER: Objection, objection to the form.

8 THE COURT: What page is that?

9 MR. BURNS: Page 4457, bottom, line 22.

10 MS. LEDERER: The form of the question.

11 Were you asked this question, and did you give
12 that answer, is not a proper form.

13 THE COURT: I'll allow him to ask whether a
14 witness was asked a particular question and gave a
15 particular answer.

16 Were you asked this question -- these
17 questions, and did you give these answers?

18 "QUESTION: Who did he come back inside with?"

19 "ANSWER: He came back inside and told me that
20 this was Mrs. Salaam, Yusef's mother, and there was
21 another woman and a man, a woman and man with them.
22 I did not learn their names."

23 "QUESTION: Did you have a conversation with
24 any of those people at the time?"

25 "ANSWER: Yes. I introduced myself to Mrs.

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1 Fairstein - People - Cross - Burns

2 Salaam, and I asked her to introduce me to everyone
3 there, so that I would know the people with whom I
4 was speaking.

5 I was concerned about whether or not I was
6 speaking with people who were part of her family, or
7 related to any of the other suspects, or witnesses.

8 She told me she would not tell me who the other
9 people were."

10 MS. LEDERER: Excuse me.

11 Q (Continuing) "who the other people were with her."

12 MR. BURNS: Right.

13 Q Did you give those answers to that -- to those
14 questions?

15 A I assume I did.

16 Q Is that -- does that refresh, refresh your
17 recollection, as to the contents of the first conversation
18 that you had with Ms. Salaam?

19 A Yes.

20 Q And Ms. Salaam, did she leave the precinct at that
21 time?

22 A After telling me that she wanted to speak to Mr.
23 Nocenti, I don't know if there remained any -- inside the
24 glass door vestibule, she left me, she left my presence.

25 Q She left you?

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1 Fairstein - People - Cross - Burns

2 A Yes.

3 Q She left that room that you were in?

4 A Yes, that's right.

5 Q She walked out of that room?

6 A That's right.

7 Q And how long was she out?

8 A I don't believe I saw her again until 12:15.

9 Q And when she came back in, did she come back in with
10 Mr. Nocenti?

11 A No, she did not.

12 Q Who did she come back in with?

13 A With the same woman and man that she had first
14 entered.

15 Q And at that time, did she introduce herself again to
16 you?

17 A No. I knew who she was. She had just introduced
18 herself to me.

19 Q The other two people, were they introduced to you?

20 A No, she would not do that.

21 She said to me, "This is my cousin," but she would not
22 tell me the name.

23 Q And David Nocenti did not re-enter at that time?

24 A At that moment, no.

25 Q Did the -- then you had a -- did you proceed to have

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1 Fairstein - People - Cross - Burns

2 a subsequent conversation?

3 Did that conversation take place at the time, at the same
4 location that the first conversation took place?

5 A No, sir.

6 Q You withdrew to another room, is that correct?

7 A Yes.

8 Q That room would have been off this main lobby area,
9 is that right?

10 A That's right.

11 Q And that's a room with what, chairs?

12 A Yes. It was more private, and it had chairs, in
13 which the women could sit.

14 Q And when you entered that room, isn't it true that
15 Mrs. Salaam and the female who was with her, and the male who
16 was with them, together, with you and at least two other
17 police officers, didn't you all enter the room at that time?

18 Do you recall that?

19 A We all first entered together, yes.

20 Q And there came a time when the man, who was with
21 Mrs. Salaam's group, the Salaam group, was asked to leave,
22 isn't that correct?

23 A That is correct.

24 Q So, was it at that time that you learned the name of
25 the woman who was with Mrs. Salaam?

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1 Fairstein - People - Cross - Burns

2 A That night, I never learned her name.

3 Q Never learned her name?

4 A No, sir.

5 Q She was never introduced to you in that room?

6 A Mrs. Salaam said that "This is my cousin."

7 Q She was never introduced to you in that room.

8 A That's correct.

9 Q And the man, did you ever -- was he introduced?

10 A He was not.

11 Q Well, how did it come about that you knew that he
12 was not a member of the family?

13 A Because I said I needed to know their names and
14 their relationships, so that I could be sure that these were
15 members of Mrs. Salaam's family, and not concerned with other
16 witnesses.

17 My particular concern was from the press, since there
18 were members of the press already outside the precinct.

19 Q So --

20 A I asked for the gentleman's name.

21 MS. LEDERER: Excuse me, objection.

22 THE COURT: No, no. Let her finish her answer.
23 Go ahead.

24 A I then asked for the name of the lady and gentleman.
25 Mrs. Salaam said, "This is my cousin," pointing to the

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1 Fairstein - People - Cross - Burns
2 young woman." Would not give me her name.

3 And she pointed to the gentleman and said, "This is my
4 cousin's fiancee."

5 And I said, "If they will not identify themselves, I'm
6 going to ask the gentleman to leave because he is not part of
7 your family."

8 Q Well, let me get this:

9 The female who was with Mrs. Salaam, did, did she refuse
10 to identify herself after you asked her her name?

11 MS. LEDERER: Objection.

12 THE COURT: I'll allow it.

13 A She never spoke. It was Mrs. Salaam who said --

14 Q Did -- I understand that. That's not my question.

15 MS. LEDERER: Objection.

16 THE COURT: She never spoke.

17 MR. BURNS: That's not my question.

18 THE COURT: That's an answer to your question.

19 MR. BURNS: My question is --

20 THE COURT: What's your next question.

21 Q Did you ask the female who was with Mrs. Salaam her
22 name?

23 A Yes.

24 Q And she never gave an answer, is that right?

25 A Mrs. Salaam interrupted her and said she didn't have

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4969

1 Fairstein - People - Cross - Burns
2 to answer.

3 Q And did you put the same question to the man, did
4 you ask this, the gentleman who was with them, what his name
5 was?

6 A I tried to.

7 Q No.

8 Did you ask him his name?

9 A I believe I did.

10 Q And he, he did not answer either?

11 A No, sir.

12 Q But then he got up and left?

13 A I asked him to.

14 I said, since I don't know who you are," and since even
15 Mrs. Salaam said he was not a relative, in the sense of the
16 immediate family, I said I would prefer, "I would be more
17 comfortable," were the words I used, "if you stepped outside
18 and let me talk to the women about this case."

19 Q And how long did that conversation last, while you
20 were in the room?

21 A A couple of minutes, just a few minutes, not just
22 what you talked about, but while I remained in that room with
23 Mrs. Salaam.

24 Q Yes.

25 I'm talking about, how much time did you spend in the

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1 Fairstein - People - Cross - Burns
2 room with Mrs. Salaam? I'm talking about this little room.

3 A It's a big room.

4 Q All right, the big room.

5 A Right. Okay.

6 In that room, from the time we went in and we did this
7 business about who the other people were and the conversation
8 that followed, all told, five minutes, not more.

9 Q And during that period of time, there was no mention
10 of Yusef's age by, by, his age, the specific number, there was
11 no, nobody mentioned his age at, at that time, while you were
12 in the room?

13 A Yes, sir.

14 It was in this conversation, after the gentleman left,
15 when I continued to converse, seated with the other two women,
16 that we went on to discuss the matter.

17 And it is in this conversation that Mrs. Salaam first
18 said, "I want to see my son, he's a minor," she used the word
19 "minor."

20 And then I went on, and then, when she raised it again,
21 she said, "My son is 15 years old, I want to see him," it was
22 in that period, between 12:15 and 12:20 that I heard his age
23 as 15 the first time.

24 Q And then, at 12:20, did you send an officer upstairs
25 to stop the questioning, upon learning that he was 15?

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1 Fairstein - People - Cross - Burns

2 A I sent an officer upstairs to bring me the officers
3 who had, who were responsible for eliciting the information
4 that led me to believe, a half hour earlier, that Yusef was
5 16, so that they could have a conversation with Mrs. Salaam,
6 she was saying 15.

7 He was saying Yusef is saying he's 16.

8 I want to see the basis for age, and resolve whether or
9 not the questioning should go on.

10 Q You had no doubt in your mind at that time that Mrs.
11 Salaam was actually the mother, did you?

12 A Any doubt that she was his mother?

13 Q Yeah?

14 A No, I did not.

15 Q But you wanted to check whether -- what the cops
16 were relying on, upon learning from the mother that he was 15,
17 you wanted to check to find out what the cops were relying on,
18 to make them believe that he was 16?

19 A It is not uncommon for parents to --

20 Q No.

21 THE COURT: Answer the question.

22 Q Is that correct?

23 A Did I want to?

24 Q Yes.

25 A I wanted police officers to tell Mrs. Salaam what

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1 Fairstein - People - Cross - Burns
2 their explanation for that date of birth was, certainly, yes.
3 Q And that conversation in the room, that was like,
4 you say, three minutes?
5 A Five, top to bottom, I think.
6 Q Five minutes, in the little room.
7 A Big room, but more private than in the lobby.
8 Q The private room?
9 A Correct.
10 Q And did you stay in the room at that time?
11 A I walked to the door that leads to the lobby.
12 Q Did Mrs. Salaam and the lady she was with remain in
13 the room at that time?
14 A Yes, because they were waiting for the detectives to
15 come down with the -- I told them that someone was going to
16 come down and explain why he was 16, and see if the date of
17 birth they had was different than what she was going to tell
18 me it actually was.
19 Q Well, Mrs. Salaam was interested in seeing her son,
20 she didn't care about these dates.
21 MS. LEDERER: Objection.
22 THE COURT: Objection sus --
23 Q Did she --
24 THE COURT: Excuse me. Objection sustained.
25 Q What did Mrs. Salaam say, if anything, in relation

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1 Fairstein - People - Cross - Burns
2 to this, when you said that they're going to bring down these
3 dates?

4 MS. LEDERER: Objection.

5 THE COURT: I'll allow it.

6 A She didn't say, because I was the one who knew
7 whether it was, whether I was legally responsible for allowing
8 her to see her son, depending on what age he was. She didn't
9 say.

10 Q But you still, at that point, had no, no doubt that
11 she was, in fact, the mother?

12 A None at all.

13 Q And actually, if she is the mother, she would have a
14 right to be present during questioning, isn't that true?

15 MS. LEDERER: Objection.

16 A Not --

17 THE COURT: Wait. Just a minute. Objection
18 sustained.

19 Q Well, if she's the mother, and if the child is under
20 15 --

21 MS. LEDERER: Objection, objection.

22 Q Did she have the right --

23 MS. LEDERER: Objection.

24 Q (Continuing) to be present?

25 MS. LEDERER: Objection.

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

Q During the question?

MS. LEDERER: Can we -- objection. Can we have a sidebar?

THE COURT: Objection sustained.

Q There were other people who were less than 15, 16 years old, being questioned, isn't that true?

MS. LEDERER: Objection.

THE COURT: I'll let her answer it.

A Yes, there were.

Q And their parents were present during the questioning, isn't that true?

MS. LEDERER: Objection.

THE COURT: If she knows.

Q Do you know whether the parents of the other people who were less than 16, that were being questioned, did you know whether their parents were present?

A Yes.

The police were very careful to see that they were.

Q Did there come a time when Detective Taglioni came downstairs to the private room?

A Yes.

Q Did he enter the private room?

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4975

FAIRSTEIN - REBUTTAL - CROSS - BURNS

1
2 A Yes.

3 Q And Mrs. Salaam and the other, the female
4 that she was with, they were in the room as well?

5 A Yes.

6 Q And was there any further conversation
7 relative to Yusef's age?

8 A Yes.

9 Q Did Mrs. Salaam state, or continue to
10 state, that he was 15?

11 A Yes, she did.

12 Q At that time, during that conversation, did
13 you learn that it was, in fact, Detective Taglioni,
14 the officer who brought him to the precinct?

15 A No, I didn't.

16 Q And at that time, during that conversation,
17 did Taglioni tell you that this kid told me he was
18 16?

19 Did that take place in that conversation
20 there in the room?

21 A Taglioni told Mrs. Salaam, and I heard,
22 that "Yusef showed me a bus pass which had this date
23 of birth, he's 16."

24 Q No. We know what the bus pass says, that's
25 not the issue.

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

MS. LEDERER: Objection.

THE COURT: Objection sustained to the form of the question.

Q We're not talking about the bus pass.

MS. LEDERER: Objection.

THE COURT: It's not --

MR. BURNS: It's my question. I'm directing the witness' attention to the fact that I'm not talking about the bus pass.

THE COURT: Ask the question properly and you can do that.

Q Did you --

MS. LEDERER: Objection.

THE COURT: We're not talking about that.

Q I'm going to ask you a question that doesn't involve the pass.

MS. LEDERER: Objection.

THE COURT: Objection sustained.

Counsel, please follow the direction of the Court. And it's not humorous. If you think it's humorous, it's not.

MR. BURNS: I haven't laughed in this

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1 FAIRSTEIN - REBUTTAL - CROSS - BURNS

2 courtroom. It's not. I'm not the one.

3 This witness has a smirk on her face.

4 THE COURT: Counsel.

5 MR. BURNS: I'm not smiling. This is
6 serious.

7 THE COURT: I realize it's serious,
8 and the direction I gave you is
9 appropriate.

10 Q During the time when Detective Taglioni
11 came down to the private room --

12 A Yes.

13 Q -- did Detective Taglioni tell you that
14 Yusef Salaam told him that he was 16 years old; yes
15 or no?

16 A I heard him --

17 THE COURT: Just a minute. Did he
18 tell you?

19 THE WITNESS: No.

20 Q Did Detective Taglioni say that in the
21 room?

22 A Yes.

23 Q In the presence of his mother, did he say
24 that specifically, that Yusef Salaam told me that he
25 was 16 years old?

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NYCLD_015496

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T4-sc

4978

FAIRSTEIN - REBUTTAL - CROSS - BURNS

1 A Yes.

2 Q That's what you're saying?

3 A Yes.

4 Q And there was no mention at that time about
5 a wallet?
6

7 A No, not on that night, in my presence.

8 Q Nothing about a wallet in the room?

9 A Not at all.

10 Q Nothing said about any other piece of
11 identification in the room?
12

13 A Yes.

14 Q Was anything said about Mt. Sinai Hospital
15 or a Mt. Sinai Hospital medical card?
16

17 A Nothing at all.

18 Q Now, Ms. Fairstein, what time was it when
19 you left the room, we are talking about the private
20 room.
21

22 A I leave it, that conversation between
23 Taglioni and Mrs. Salaam had been completed and I
24 directed Taglioni to go upstairs and tell McKenna to
25 stop the questioning.

Q And you told him to tell McKenna to stop
the questioning because Yusef was 15?

A Yes.

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T4-s c

4979

FAIRSTEIN - REBUTTAL - CROSS - BURNS

Q Is that the reason?

A Yes.

Q And that was at what time, ma'am?

A About 12:20.

Q And did you leave the room then at 12:20?

A Yes.

Q And did Detective Taglioni leave the room at the same time?

A Yes.

Q And was there anything said prior to your leaving the room about Mrs. Salaam being able to see her son?

A Yes.

Q Did you tell her she would be able to see her son?

A Yes, I did.

Q After you left the room, you went back out into the first room that you had the conversation with Mrs. Salaam and David Nocente?

A The lobby, yes.

Q Did you see David Nocente at any place within that lobby area?

A Yes.

Q Was he seated at a bench or at the side?

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T4-s c

4980

FAIRSTEIN - REBUTTAL - CROSS - BURNS

1
2 A I didn't remember there being any seats
3 there. There may have been. he came over to me at
4 some point.

5 Q Did you see the other male who you
6 understood to be the fiance of the cousin?

7 A I don't remember seeing him again that
8 night, no.

9 Q When you left the room, did you tell Mrs.
10 Salaam and the cousin to remain in the room?

11 A No.

12 Q Did there come a time when they then came
13 out of the room?

14 A Yes.

15 Q And there was a further conversation you
16 had with Mrs. Salaam?

17 A Yes.

18 Q Prior to having her -- to her having that
19 conversation with you, did she speak to David
20 Nocente or appear to be engaged in a conversation?

21 A Yes, they were in a group, there was
22 conversation. I didn't hear it.

23 Q Did there come a time when Mrs. Salaam
24 asked you for some water?

25 A No.

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

Q That she was thirsty?

A No.

Q She didn't ask you, did you know where there was some water she could drink?

A No, she did not.

Q But -- what time was it when you had that conversation with Mrs. Salaam, after she came out of the room?

A (No response)

Q Do you understand my question?

A I'm just trying to figure out which conversation?

Q It's the conversation you had with her after she came out of the private room.

A There is another one you're not referring me to. The only other thing I remember was at 12:30, that she approached me and said --

Q Where did she approach you?

A I was in that lobby. I was in the lobby area.

Q In the lobby?

A Right.

Q So this conversation at 12:30, that followed the conversation you had with her in the

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

room?

A Right.

Q And you're saying it's approximately 10 minutes later?

A Yes.

Q And she entered -- she came to you?

A Yes.

Q And that's when she said, she was going to get a lawyer?

A That's right.

Q And who was present when she said that?

A I believe she and I were alone when she said it.

Q And when she said it, she was going to get a lawyer, you said words that the questioning was going to stop again?

A No. I had directed the questioning stop and I told her it would be stopped, when she told me that he was 15.

Q Well, did you communicate, did you tell Taglioni or send word to McKenna that the questioning was going to stop because there was an attorney-- because of an attorney being either there or involved in the case?

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T4-s c

4983

FAIRSTEIN - REBUTTAL - CROSS - BURNS

A I said --

Q Did you convey that to McKenna?

A I first conveyed to McKenna that the questioning was to stop as soon as we learned that Mrs. Salaam said that Yusef was 15.

Q And that was conveyed through Taglioni?

A That's right.

Q Now, the second time you conveyed it was what, did you convey any information relative to the fact that there was an attorney?

A I told the supervisor --

MS. LEDERER: Objection as to form.

THE COURT: I'll allow it.

Q She said, she meaning Mrs. Salaam, said that she was going to get an attorney. Upon her saying she was going to get an attorney, you conveyed that information to a supervisor?

A Yes.

Q You know who the supervisor was who you conveyed it to?

A I believe both Captain Rowe and Sergeant Cleve.

Q You didn't convey it directly to McKenna, is that correct?

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T4-s c

4984

FAIRSTEIN - REBUTTAL - CROSS - BURNS

A I did not personally, no.

Q And Detective Taglioni was not present when you conveyed the information to those two officers; is that right?

A Right, uh-huh.

Q How long did the conversation with Mrs. Salaam last, that 12:30 conversation last?

A She spoke those two sentences to me, and I said, that's fine, I'll make a note of it, and that was the entire conversation.

Q Now, you spoke to her again. Was there a subsequent conversation?

A I don't believe that night there was, no.

Q And your first conversation with her was about ten minutes to 12?

A Between 10 of 12 and 12.

Q And you left the precinct at about 12:35, 12:40?

A No. Earlier than 12:35 and shortly thereafter, yes.

Q And at no time during the period that you were in the precinct, was Mrs. Salaam permitted to see her son?

A That's right.

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T4-sc

4985

FAIRSTEIN - REBUTTAL - CROSS - BURNS

Q And she hadn't even seen her son at the time you left?

A I don't know. She may have then. I don't know. I directed that she be allowed to. I don't know what arrangements the police made.

Q You made that direction at 12:20?

A Yes.

Q You have no knowledge at all what the cousin and that other person who you never knew, you don't know what time they arrived at the precinct?

A I do not.

Q You don't know whether they had spoken to any officers at all?

A I --

Q It was never brought to your attention?

A I just don't know anything about them except my encounter with them.

Q You only came into the precinct insofar as that night was concerned, when the detective came and told you there was a lawyer downstairs?

A I don't understand the question.

Q You only got involved relative to this -- your interaction with Mrs. Salaam or members of her family, members or their representatives, the first

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T4-sc

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

time you got involved was as a result when a detective came and told you that there was an attorney downstairs inquiring about Salaam?

A That's right.

Q And that person wasn't permitted to see him either, right?

A I'm sorry?

Q That person, who turned out to be Nocente, he wasn't permitted to see him either?

A He had no standing to see him.

Q And aside from the mention of what Taglioni said he was relying on, there was never any conversation about any other pieces of identification that Yusef may or may not have had?

MS. LEDERER: Objection.

THE COURT: If she can answer, I'll allow it.

A The identification, yes, Mrs. Salaam had home, she would provide, about Yusef.

Q I'm not talking about -- I'm talking about the identification Yusef had. The only identification Yusef had, that is the bus pass, that was your understanding?

A That's correct.

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T4-s c

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FAIRSTEIN - REBUTTAL - CROSS - BURNS

Q And that was conveyed to you by Detective Taglioni?

A That is correct.

Q Thank you, Ms. Fairstein.

MR. RIVERA: I have a few questions.

THE COURT: Go ahead.

REBUTTAL CROSS EXAMINATION

BY MR. RIVERA:

Q Good afternoon, Ms. Fairstein.

Did you visit the crime scene on the 20th or 21st?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q You indicated you're the Assistant District Attorney in charge of the Sex Crimes Unit; is that correct?

A Yes.

Q And as the Assistant District Attorney in charge of that unit, you have attorneys who work for you; is that right?

A With me, yes.

Q Is Ms. Lederer one of the attorneys assigned to that unit?

A The best, yes.

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4988

FAIRSTEIN - REBUTTAL - CROSS - RIVERA

MR. RIVERA: Your Honor, if we can have --

THE COURT: Yes, strike out the answer.

The question is a very simple question.

Q Can you answer the question?

A Yes, she is.

Q Now, there are also police officers who are assigned to the Sex Crimes Unit; is that correct?

MS. LEDERER: Objection.

THE COURT: I'll allow it.

A Yes, there are.

Q And there are police officers in specialized bureaus, assigned to the Sex Crimes Unit; is that correct?

MS. LEDERER: Objection.

THE COURT: I'll let her answer.

A Yes.

Q In fact, that night, at Central Park there were police officers from the Sex Crimes Bureau, is that correct?

MS. LEDERER: Objection.

THE COURT: Sustained.

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FAIRSTEIN - REBUTTAL - CROSS - RIVERA

Q Did you see any police officers from the Sex Crimes Bureau that night on the 20th?

MS. LEDERER: Objection.

THE COURT: I'll allow it.

A I'm trying to remember. I spoke to -- I can't remember seeing any.

What period of time?

Q You were there from, you indicated, 8:00 to 12:30; is that correct?

A I don't remember seeing any members of the Squad at the 20th Precinct in that period, no.

Q Now, you also indicated that you received a phone call at about 9:00 in the morning, is that correct?

A Yes.

Q And do you recall who called you at about that time?

A Yes.

Q And who is that?

A I'm quite sure it was Sergeant Robert Fitson, who is the supervising officer of the Manhattan Sex Crimes Squad.

Q That was about 9:00 in the morning?

A Yes.

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4990

FAIRSTEIN - REBUTTAL - CROSS - RIVERA

Q Of the 20th?

A Yes.

Q Did you request of Sergeant Fitson he assigned detectives from the Manhattan North Homicide?

A I don't have any ability to ask a police officer to assign --

THE COURT: The question is did you?

THE WITNESS: No, I did not.

Q You had worked on other occasions with detectives from the Manhattan North Homicide; is that right?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q You, yourself, are a trial attorney; is that correct?

MS. LEDERER: Objection.

THE COURT: I'll let her answer.

A Yes.

Q And you tried highly publicized cases before; is that correct?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q You attended a briefing at about 8:00 in

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4991

FAIRSTEIN - REBUTTAL - CROSS - RIVERA

the evening, is that correct?

A I arrived after 8:30 in the evening.

Q Did you attend a briefing at about 8:30 to 9:30 at the 20th Precinct?

A Yes.

Q And was Detective Sheehan at that briefing?

A No, he was not.

Q Was Detective Hartigen at that briefing?

MS. LEDERER: Objection, your Honor, this is beyond the scope. The witness is a rebuttal witness.

THE COURT: Yes. I'll allow it.

A He was not there when the briefing began. He may have been called in to answer some questions. But he was not part of the group there, I don't believe.

Q You recall him being called in to answer questions, is that correct?

A I believe so.

Q Was Detective Arroyo present at that briefing?

A I don't remember him being there.

Q And was Captain Rowe at that briefing?

A In and out, doing other things, but there.

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Td-s c

4992

FAIRSTEIN - REBUTTAL - CROSS - RIVERA

Q By the way, what is the assignment of Captain Rowe, if you know?

MS. LEDERER: Objection.

THE COURT: I'll allow it.

A I don't know.

Q Is he a detective captain or is he a patrol captain?

MS. LEDERER: Objection.

THE COURT: I'll let her answer.

A I don't know.

Q What about Sergeant Cleve, is he a detective sergeant or a patrol sergeant?

A I don't know.

Q And how long were you at that briefing?

A An hour, approximately, a little longer.

Q And the purpose of that briefing was the attack on the female jogger; is that correct?

A The entire event of the preceding night in the park.

Q With special emphasis on the female jogger; is that correct?

A It was a comprehensive coverage.

Q When you say comprehensive, we're talking about all inclusive; is that correct?

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T4-5c

4993

1 FAIRSTEIN - REBUTTAL - CROSS - RIVERA

2 MS. LEDERER: Objection.

3 THE COURT: I'll let her answer.

4 A I just don't know what you mean.

5 Q You used the term comprehensive. When you
6 use the term comprehensive, all aspects of the case
7 were discussed, is that correct?

8 A Not in one hour. We attempted to
9 summarize, to be brought to date on the
10 investigation.

11 Q And there were police officers who were
12 bringing the others up to date; is that correct?

13 A Yes.

14 Q And there was a give and take and a
15 question and answer going on during this briefing,
16 is that correct?

17 A Some of them, yes.

18 Q And there was no time limitation, there was
19 no specific time limitation that was placed on this
20 briefing; is that correct?

21 MS. LEDERER: Objection.

22 THE COURT: I'll allow it.

23 Q In other words, the briefing was not only
24 -- there was no indication that the briefing was
25 only going to be for one hour?

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4994

FAIRSTEIN - REBUTTAL - CROSS - RIVERA

A No.

Q And the female jogger was discussed during this briefing; is that correct?

A Certainly.

Q And her medical condition was discussed; is that right?

A Yes.

Q And events at that crime scene were discussed, is that right?

A Yes.

Q And information that was uncovered at the crime scene was discussed; is that correct?

A I don't remember. I'm not sure I know exactly what you mean.

Q Well, police officers were talking about the crime scene, the location of the crime scene, the description of the crime scene, isn't that correct?

A Yes.

Q And other evidence that was uncovered at the park was also discussed; is that correct?

MS. LEDERER: Objection.

THE COURT: I'll let her answer.

A No, sir.

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4995

FAIRSTEIN - REBUTTAL - CROSS - RIVERA

Q The only evidence that was discussed was the crime scene, is that correct? And the reservoir?

A The only evidence, is that the question?

Q The information that was discussed during this briefing was that evidence concerning the crime scene and the reservoir area, is that correct?

A It was about the investigation and the individuals involved in the investigation.

Q Did they talk about possible suspects?

A Yes.

Q Did they talk about anybody being under arrest?

A No.

Q And that lasted about an hour; is that correct?

A Yes.

Q And about 9:30 the meeting broke up?

A Not that it actually broke up, a lot of things were going on. A lot of us were in and out of the room actively doing things.

Q You asked questions during this briefing; is that correct?

A Ms. Lederer did.

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Td-sc

4996

FAIRSTEIN - REBUTTAL - CROSS - RIVERA

Q And the other detectives also were able to ask questions during the briefing; is that correct?

A Some did.

Q You are familiar with Central Park, is that correct?

A Yes.

Q You performed other investigations in Central Park, is that correct?

MS. LEDERER: Objection.

THE COURT: Sustained.

MR. RIVERA: No further questions, Judge.

THE COURT: Mr. Joseph?

MR. JOSEPH: I have no questions.

THE COURT: You have anything else?

REBUTTAL REDIRECT EXAMINATION

BY MS. LEDERER:

Q You indicated that on the morning of April 20 you received a phonecall regarding what had happened in Central Park on the prior evening and morning of April 20th. Is it unusual for the District Attorney's office to be notified in a possible homicide case?

MR. BURNS: I'm going to object to

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1 FAIRSTEIN - REBUTTAL - REDIRECT - LEDERER

2 that, your Honor. I wasn't permitted to
3 explore that in any detail.

4 THE COURT: I'll permit that.

5 MR. JOSEPH: I'll note my objection.

6 A Yes, it is the practice of the Police
7 Department.

8 Q It is the practice of the Police Department
9 to what?

10 A To notify, to call the District Attorney's
11 office and notify us of the possibility of
12 involvement in a homicide case and request our
13 assistance for the investigation and possible video
14 taping.

15 Q I'd like to direct your attention to the
16 time where you indicated that you had been informed
17 by Mrs. Salaam that Yusef was 15 years old and you
18 indicated you did not immediately, at that time, cut
19 off the questioning, but instead sent for Detective
20 Taglioni. Was there a reason you did not terminate
21 the questioning of Yusef Salaam when the mother told
22 you he was 15?

23 MR. BURNS: Objection, your Honor.

24 THE COURT: I'll allow it.

25 A Yes.

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T4-s c

4998

FAIRSTEIN - REBUTTAL - REDIRECT - LEDERER

Q What was that reason?

A Two-fold. One because I had seen a printed figure with an actual date of birth that I know the detectives had gotten from some source, and then wanted them to explain that to Mrs. Salaam and see what her counter to that was. And, secondly, because it is a very common occurrence for parents of minors to tell me and my colleagues that the age of an individual is not what we believe it to be.

Q When you were at the 20th Precinct, did any detective ever tell you that any family member had come to the second floor of the 20th Precinct and had a conversation with a detective on the second floor?

A No, I never heard that.

Q Did Detective Taglioni ever mention to you that he had a conversation with any family member on the second floor of the precinct?

A No, he did not.

Q You indicated you made a phonecall from the lobby of the 20th Precinct. About what time did you make that phonecall?

A I made that phonecall between 10 and five of midnight.

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4999

FAIRSTEIN - REBUTTAL - REDIRECT - LEDERER

Q And who did you call at that time?

A I called my husband.

Q Thank you very much.

MS. LEDERER: I have nothing further.

THE COURT: Anything else, Mr. Burns?

REBUTTAL RECROSS EXAMINATION

BY MR. BURNS:

Q Ms. Fairstein, who was it that called you on the morning of the 20th from the Police Department?

A I said, I believe it was Sergeant Robert Fitson.

Q Was it he?

A To the best of my recollection, at this point.

Q And who is Sergeant Fitson?

A He was, at the time, commanding officer of the Manhattan Sex Crimes Squad.

Q Was that a unit of the Police Department or is that a unit within your -- the District Attorney's office?

A That is a unit of the Police Department.

Q And the Sergeant Vincent was the commanding officer of the Sex Crimes Squad?

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5000

FAIRSTEIN - REBUTTAL - RECROSS - BURNS

A Right.

Q You know where he was calling from?

MS. LEDERER: Objection.

THE COURT: Objection sustained.

Q What time did he make that call?

A Between 8:45 and 9:15 that morning.

Q He called you at home?

A No, no, at the office.

Q He called you at the office?

A (Witness nods)

Q And he notified you at that time that a female jogger had been found in Central Park almost near dead?

A Are you asking me if that's what he said or

--

MS. LEDERER: Objection, objection.

THE COURT: Objection sustained.

Q In the notification, did he -- he notified you that --

MR. BURNS: Withdrawn.

Q He called you in relation to something that had happened in Central Park on the evening of April 19th?

A Yes.

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T5-jm

5001

FAIRSTEIN - REBUTTAL - RECROSS - BURNS

Q And did he call you in relation to something happening to a female who was in Metropolitan Hospital?

A Yes.

Q Did he also say that that person who was in Metropolitan Hospital was near death; or it was a possibility of her dying?

A He told me that the doctors did not expect her to live.

Q He told you that the person was near death?

A Yes.

Q Did he ask for your assistance in the doing the video taping in the event that they received statements for videotaping, is that correct?

MR. JOSEPH: Objection, Judge, as to what somebody else said.

THE COURT: She's already testified. So, I'll let her testify.

A That was a little premature at that point. He asked for our assistance in the investigation and two, to be available throughout the day, should, should they call upon us for help.

Q And that would be the help in obtaining statements.

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T5-jm

5002

FAIRSTEIN - REBUTTAL - RECROSS - BURNS

MS. LEDERER: Objection.

THE COURT: Sustained.

Q You weren't -- you weren't asked to investigate -- you were not asked to, to, to look for clues, were you?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q Wasn't -- isn't it a fact that the assistance that you were rendering was the connection with legal questions that would come up in the course of the investigation?

MS. LEDERER: Objection.

THE COURT: I'll let her answer it.

A That is part of it, yes.

Q Your assistance, did it involve actually going out and looking for clues?

MS. LEDERER: Objection.

A We leave that --

MS. LEDERER: Objection.

THE COURT: Sustained.

Q And the assistance that you rendered, you were able to render from your office at 80 Centre Street?

MS. LEDERER: Objection.

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T5-jm

5003

FAIRSTEIN - REBUTTAL - RECROSS - BURNS

Q Up until 8:00 that night?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q Did you render assistance to the investigation between the time that you had received the call, at 8:45 to 9:15 in the morning, did you render any assistance prior to 8:30?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q Did Ms. Lederer --

MR. BURNS: Withdrawn.

Q What time did you assign Ms. Lederer to the case?

A I believe it was 9:15 that morning.

Q Did you have any contact with any detectives, any of the investigating officers, in the Central Park Precinct, from 9:15 until 8:30?

MS. LEDERER: Objection.

THE COURT: I'll let her answer just yes or no.

A Did I personally is the question?

No, I did not.

Q And were you present when the first videotaping occurred?

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T5-jm

5004

FAIRSTEIN - REBUTTAL - RECROSS - BURNS

MS. LEDERER: Objection.

THE COURT: Sustained.

Q And that occurred in the 20th, the first videotaping?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q Did any of the videotaping take place in the 20th Precinct?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q The bus pass, when Taglioni came downstairs to the private room, he brought the bus pass with him?

A I don't believe he did.

Q When --

A I didn't see it at that time.

Q When you looked at the memo book, prior to going down to speak to David Nocente, did Taglioni show you the bus pass at that time?

A No.

Q Thank you.

THE WITNESS: Thank you.

(Witness excused)

MR. JOSEPH: May we approach?

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Colloquy

3016

(Witness leaves the courtroom.)

MR. MOORE: Can we just approach for one minutes?

THE COURT: Yes.

(At this time counsel approached the bench.)

THE COURT: We'll take a short recess, members of the jury.

Don't discuss the case or come to any conclusions about it.

Wait in the jury room. We'll be back shortly.

(Jury leaves courtroom.)

(Recess)

COURT OFFICER: Come to order.

THE COURT: People ready?

MS. LEDERER: Yes.

THE COURT: Defendants ready?

MR. DILLER: The defendant's ready.

MR. MOORE: Yes.

THE COURT: All right, bring out the jury.

COURT OFFICER: Jurors entering.

(Jury enters courtroom.)

COURT CLERK: The defendants, their attorneys, the assistant district attorneys and

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all sworn jurors are present.

THE COURT: Who's the next witness, please?

MS. LEDERER: Linda Fairstein.

COURT OFFICER: Place your left hand on the Bible, raise your right and face the court clerk, please.

COURT CLERK: Do you solemnly swear the evidence you'll give the Court and jury shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

~~L I N D A F A I R S T E I N~~, a witness herein on

behalf of the People being

first duly sworn, testified as follows:

COURT OFFICER: Please be seated.

In a loud clear voice, state your name spelling your last name.

THE WITNESS: Linda Fairstein,

F-A-I-R-S-T-E-I-N.

DIRECT-EXAMINATION BY

MS. LEDERER:

Q. Where are you employed, Miss Fairstein?

A. At the New York County District Attorney's Office.

Q. And what is your position with the New York County

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District Attorney's Office?

A. I'm an assistant district attorney. I'm in charge of the Sex Crimes Prosecution Unit of this office.

Q. How long have you been with the district attorney's office?

A. Eighteen years.

Q. I'd like to direct your attention to approximately 7:00 a.m. on the morning of April 21st, of 1989. Where were you at approximately that time, on that date?

A. I was at the 24th police precinct, in New York County.

Q. Did you have a conversation or a discussion with anyone at that time at the 24th Precinct?

A. Yes. I had several discussions starting at that time.

Q. And did you have any discussions with a Detective Sheehan?

A. Yes, I did.

Q. And who else was present during the conversation you had with Detective Sheehan?

A. The first conversation I had with him, at that time we were alone together.

Q. As a result of your conversation with Detective Sheehan, what, if anything, did you do?

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3019

5
1 A. I made a decision to return to or to go to Central
2 Park that morning, the area of the Cross Drive and about
3 102nd Street and to ask Kevin Richardson and Kharey Wise if
4 they would be willing to accompany us there.
5

6 Q. After reaching that decision, what, if anything,
7 did you do?

8 A. I asked Detective Sheehan if he would introduce me
9 to the father of Kevin Richardson. And I had a conversation
10 with the gentleman who was introduced to me as Kevin's
11 father.

12 Q. Where did that conversation take place?

13 A. It took place in the large second floor detective
14 squad room at the 24th Precinct.

15 Q. And at the time that you were introduced to Mr.
16 Richardson, who else was present?

17 A. Detective Sheehan, Kevin Richardson was seated
18 within feet of us.

19 Q. What, if anything, did you say to Mr. Richardson
20 and what, if anything, did he say to you?

21 A. We were introduced to each other. I identified
22 myself. I explained my role in the proceedings. I told him
23 that I knew that Kevin had just completed making a statement
24 to Miss Lederer who had interviewed him on video tape, which
25 I knew Mr. Richardson was present. I told him I wanted to

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1 go back to the park, go to the park and would like Kevin to
2 accompany me and the detectives. And I told him that he,
3 Mr. Richardson, had the right to go with us because of
4 Kevin's age and explained what our purpose was and asked him
5 if he wanted to accompany us to the park.
6

7 Q. What, if anything, did Mr. Richardson say?

8 A. He said -- he asked me if after Kevin went to the
9 park, would he be brought back to that precinct so Mr.
10 Richardson could see him again. I said "yes". He said then
11 he did not want to go to the park, that we could take Kevin
12 and go to the park and return.

13 Q. Approximately how long did that conversation with
14 Mr. Richardson last?

15 A. Two or three minutes.

16 Q. At the time that you had this conversation with
17 Mr. Richardson with respect to going to the 102nd Street
18 Cross Drive, had you yourself been there during the --
19 either on April 20th or on the morning of April 21st?

20 A. I had not been there before.

21 Q. After you had the conversation that you described
22 with Mr. Richardson, what, if anything, did you see Mr.
23 Richardson do?

24 A. Mr. Richardson --

25 MR. MOORE: Which Mr. Richardson are we

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1 Fairstein / People / Direct (Lederer)

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2 talking about?

3 MS. LEDERER: Kevin Richardson's father?

4 A. Senior, I believe had a conversation with Kevin.

5 Q. And where was Detective Sheehan during the
6 conversation that you had with Mr. Richardson?

7 A. He was a foot or so away from me, talking to Kevin
8 Richardson.

9 Q. After speaking to Kevin Richardson's father, did
10 you speak to anyone else in the squad room of the second
11 floor of the 24th Precinct?

12 A. Yes. In that same room, several feet away at
13 another desk, was Kharey Wise. And I then had a
14 conversation with Kharey Wise.

15 Q. Prior to having a conversation with him at that
16 time, had you had any conversation with Kharey Wise prior to
17 that?

18 A. No, I had not.

19 Q. What was Kharey Wise doing when you approached him
20 and had the conversation?

21 A. He was sitting at a desk not doing anything, not
22 talking to anyone but sitting at a desk.

23 Q. Were other people in the squad room of the 24th
24 Precinct at this time?

25 A. Yes. It was a very large room and there were a

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3022

lot of people present. There were young men. There were families of young men. There were a lot of detectives in civilian clothes present.

Q. What, if anything, did you say to Kharey Wise when you approached him?

A. I introduced myself. I explained what my position was. I told him that I wanted to go to the park and wanted to ask if he would accompany me but that I was first going to read him his rights. And so I had read him his rights and then explained to him what my purpose was after I had done that.

Q. And at that time, did you read something to him?

A. Yes, I did.

Q. And what did you read to him?

A. I carry a card in my wallet --

MR. MOORE: Objection, not responsive.

A. I took a card from my wallet and read from this card a number of questions. And I asked Kharey Wise the questions.

MS. LEDERER: If I could ask please if this could be marked as People's 184 for identification.

(So marked.)

MS. LEDERER: If the witness could be shown

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what's been marked as People's 184 for
identification.

(Given to witness.)

Q. Do you recognize what that is?

A. Yes.

Q. What do you recognize that to be?

A. This is the card with the so called Miranda
warnings or rights on it which I used on the morning of the
21st to read and ask questions to Kharey Wise.

Q. Are those the rights that you read to Kharey Wise
on that morning?

A. Yes, they are.

MS. LEDERER: At this time I would offer
People's 184 in evidence.

(Shown to defense counsel.)

THE COURT: Any objection?

MR. MOORE: No.

THE COURT: Mark it.

(So marked.)

(Given to witness.)

Q. I would ask you please to read the rights that you
read and as you read them to Kharey Wise and indicate what
answer, if any, he gave to anything that you said to him at
that time.

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1 A. I read him the first one.

2 I said, "You have the right to remain silent." I
3 then asked, "Do you understand that?"

4 "Do you understand that," is not written on the
5 card. I asked that afterwards.

6 He said, "yeah" or "yes".

7 I said, "Anything you say can and will be
8 used against you in a court of law. Do you understand
9 that? He said "yeah".

10 I said, "You have the right to talk to a lawyer or
11 have a lawyer present with you while you're being
12 questioned. Do you understand that? He said, "yes".

13 "If you can not afford to hire a lawyer, one will
14 be appointed to represent you before we question you,
15 before any questioning, if you wish. Do you understand
16 that? He said, "yes".

17 And the fifth one was, I said, "You can decide at
18 any time to exercise these rights, to tell us you want
19 a lawyer and not answer any questions or make any
20 statement. Do you understand that? And he said,
21 "yes".

22 I turned the card over and I asked him if he
23 understood each of the questions I had asked him. He said,
24 "yes".

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And I said, "having -- I used the words on here.

I said, "Having these questions in mind, will you
answer my questions now. And he said, "yes".

(Continued on next page.)

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1 Fairstein/direct/People 3026

2 Q What color is that exhibit, 184 in evidence?

3 A It's a white card with print on it.

4 Q After reading those rights and receiving the
5 answers that you've just described, did you say anything to
6 Kharey Wise?

7 A Yes.

8 Q What, if anything, did you say to him?

9 A I told him that I intended to go with the
10 detectives to Central Park to the cross drive about 102nd
11 Street. And I asked him if he would be willing to come with
12 us.

13 I knew he had been talking to police officers. I told
14 him that I knew that he was waiting to be interviewed by
15 Miss Lederer, and that if he was willing to do that when he
16 came back from the park, that would happen thereafter. But
17 I wanted to clarify statements that had been made about
18 where certain events had happened in the park, if he would
19 go with us.

20 He said that he would.

21 Q At the time that you had that conversation with
22 Kharey Wise, had you read a statement that he had made and
23 signed to John Hartigan?

24 A I had not.

25 Q After you said what you've just described to Kharey

1 Fairstein/direct/People 3027

2 Wise, what did he say to you?

3 A He said, yes or yeah, that he would come with us.

4 Q Did you leave the 24th Precinct at that time?

5 A Moments -- minutes later, yes.

6 Q And who went with you when you left?

7 A I left in an unmarked police car which was driven
8 by Detective Sheehan. And with us also was a detective
9 named Augie Jonza, Kevin Richardson, Kharey Wise.

10 Q During the morning hours of April 21st, had other
11 persons been taken to the Central Park crime scene to the
12 102nd Street cross drive?

13 A Yes. During -- between midnight and 7 o'clock in
14 the morning other young men had been taken to the park in
15 darkness by other detectives. I did not accompany them.

16 Q Where were Kharey Wise and Kevin Richardson in the
17 car that you've just described?

18 A They were both seated in the back seat of the car.
19 I was in the front seat. There was a Detective Jonza
20 between them. Neither was handcuffed.

21 Q Approximately how long did it take to get to
22 Central Park?

23 A Less than fifteen minutes to get to that location
24 within the park that we went to.

25 Q Where did you go within Central Park?

1 Fairstein/direct/People 3028

2 A We entered on the west side about a Hundred or
3 110th Street. 110th Street. And drove down.

4 And as we got on the 102nd Street cross drive and
5 proceeded from the west side towards the east our unmarked
6 car was stopped by a radio car, a blue and white police car.

7 Q Was a conversation had at the time when your car
8 was stopped by a radio car?

9 A Yes.

10 Q And did you speak to anybody in the radio car?

11 A As I recall Detective Sheehan and I both got out of
12 the car. He did the talking to the other police officer.

13 Q How long did that conversation last?

14 A Two or three minutes.

15 Q What happened after that conversation?

16 A After that conversation, the other police car
17 pulled away. Detective Sheehan and I asked Kevin Richardson
18 to step out of the car.

19 Q And did Kevin Richardson get out of the car at that
20 time?

21 A Yes, he did.

22 Q Did either you or Detective Sheehan have a
23 conversation with Kevin Richardson at that time?

24 A Yes.

25 Q Would you tell the members of the jury what that

1 Fairstein/direct/People 3029

2 conversation was?

3 A We were standing in the paved roadway at 102nd
4 Street. And Detective Sheehan said to Kevin, "does this
5 area -- does any of this look familiar to you?"

6 And Kevin Richardson said, "yes. This is where we got
7 her".

8 Q Was anything else said to Kevin Richardson at that
9 time?

10 A Nothing that I recall.

11 Q And what happened after he said that?

12 A Then we asked him to get back into the car. And we
13 asked Kharey Wise to step out onto the roadway.

14 Q And did Kharey Wise get out of the car at that
15 time?

16 A Yes, he did.

17 Q And was there a conversation with Kharey Wise at
18 that time?

19 A Yes.

20 Q Would you tell the members of the jury what that
21 conversation was?

22 A Again it was Detective Sheehan who spoke, who asked
23 Kharey if that -- if anything in that area was familiar to
24 him or looked familiar to him. And Kharey answered.

25 Q And what did Kharey Wise say?

1 Fairstein/direct/People 3030

2 A He pointed to the roadway we were standing on and
3 said, "this is where they snatched her."

4 And he described then -- he pointed south of the roadway
5 to the ball fields that were there and said that he was
6 running to where the woman was and could see the other kids,
7 he said, snatch her, meaning the woman who had been
8 assaulted on the roadway.

9 Q After Kharey Wise said that, was there any further
10 conversation with him?

11 A No, there was not.

12 Q What happened next?

13 A Kharey got into the back seat of the car again.
14 Detective Sheehan and I got into the front seat of the car.
15 We were then led by this patrol car further east to a
16 clearing north of the roadway.

17 And the officer -- the two cars followed each other or
18 we followed the patrol car down a clearing, down actually a
19 steep incline to a pathway at the bottom of the steep hill.

20 Q What happened when you arrived on the lower roadway
21 or the path that you've described?

22 A Detective Sheehan and I got out of the car. I
23 believe Detective Jonza and Kevin and Kharey were still in
24 the car. And Sheehan and I were led up that pathway and
25 around the area by the uniformed police officer who was

1	Fairstein/direct/People	3031
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2 there.

3 Q Where did you go exactly?

4 A We walked from where the two cars were parked
5 further west along the pathway. And the uniformed officer
6 was more familiar with the location, pointed some things out
7 to us, after which Detective Sheehan and I began to walk up
8 the hill in the direction actually of the paved roadway from
9 which we had driven.

10 Q And when you say, "from the paved roadway from
11 which we had driven," are you referring to the 102nd Street
12 cross drive?

13 A Yes, sir.

14 Q What, if anything, did you observe in that area?

15 A As we proceeded to walk up from the pathway, we
16 came upon an area which I observed a large amount of what
17 appeared to be dried blood or red substance on an area of
18 leaves and sticks on the ground.

19 Q Had you been to that location or seen what you have
20 just described prior to the moment that you arrived with
21 Detective Sheehan?

22 A No, I had not.

23 Q What happened after you arrived at that location?

24 A Detective Sheehan and I talked. And then Detective
25 Sheehan called out to Detective Jonza, who was down at the

1 Fairstein/direct/People 3032

2 car, to ask him to send Kevin Richardson up to where we were
3 standing.

4 Q And did there come a time where Kevin Richardson
5 approached where you were?

6 A Yes, he did.

7 Q Was there any conversation with Kevin Richardson
8 when he approached where you and Detective Sheehan were?

9 A Yes. Kevin Richardson walked up the incline to the
10 approximate area which we were standing. He walked alone.
11 And when he got there, Detective Sheehan asked him to look
12 around and asked if any of that area -- what in that area
13 looked familiar to him.

14 Q Did Kevin Richardson respond?

15 A Yes.

16 Q What did he say?

17 A He pointed to the area where the blood was and he
18 said, "this is where it happened." Detective Sheehan said,
19 what happened? And Kevin's answer was, "The raping."

20 Q Was there any further conversation with Kevin
21 Richardson at that time?

22 A No. Other than Detective Sheehan said he could go
23 back to the car now.

24 Q And did he proceed to leave where you were and go
25 back to the car?

1 Fairstein/direct/People 3033

2 A Yes.

3 Q After he left where you were, what was the next
4 thing that happened?

5 A As Kevin was walking back, Detective Sheehan put
6 his hands to his mouth and called out to Detective Jonza,
7 "send Kharey up here." And the two young men passed each
8 other as Kharey walked up to us.

9 Q What, if anything, happened as Kharey Wise
10 approached where you and Detective Sheehan were?

11 A He got within several feet of the area that we were
12 standing near. And he, before anybody asked him anything,
13 began talking and saying, "damn, damn, that's a lot of
14 blood. That's a lot of blood. Damn."

15 Q After he said those words, did either you or
16 Detective Sheehan say anything to him?

17 A Detective Sheehan said, I believe the phrase was,
18 "does that surprise you or why does that surprise you?"
19 and Kharey answered, "I knew she was bleeding. But it was
20 dark and I couldn't see how much blood there was. This is
21 bad."

22 Q Was there any further conversation with Kharey Wise
23 at that time?

24 A Then Detective Sheehan asked him if anything in the
25 area looked familiar to him.

1 Fairstein/direct/People 3034

2 Q What did Kharey Wise say?

3 A He said, yeah." He said, "~~this is where they raped~~
4 her." Then he said, "we dragged her." Then he said, "they
5 dragged her down here."

6 Q Did you say anything further to Kharey Wise at that
7 time?

8 A I did not.

9 Q Did Detective Sheehan say anything?

10 A I believe that's when Detective Sheehan asked him
11 could he point out a tree that he claimed to have been
12 behind when he observed -- when he made his observations.

13 Q What, if anything, did Kharey Wise do at that time?

14 A He looked around, and there were no trees
15 immediately around us, and he looked at but could not
16 describe or point to a tree that he had been hiding behind.

17 Q You indicated earlier that you had not seen or read
18 a written statement that had been signed by Kharey Wise
19 earlier on that morning.

20 Had you had any conversation with any detectives about
21 what Kharey Wise had said?

22 A Yes.

23 Q And to your knowledge, what had Kharey Wise said at
24 the time the prior -- what statements had he made prior to
25 your taking him to the crime scene on that morning?

1 Fairstein/direct/People 3035

2 MR. MOORE: Objection to the form.

3 THE COURT: Come up here for a minute.

4 (Whereupon, the following occurred at sidebar:)

5 THE COURT: What is your objection?

6 MR. MOORE: As to what she heard from some
7 officer?

8 THE COURT: She was asked if she had read this
9 statement. She said no. She was asked if she had
10 talked to any detectives about what he had said and
11 she said yes. And she said, what was she told.

12 MS. LEDERER: You just cross-examined Detective
13 Sheehan for an hour about what he --

14 MR. MOORE: Yeah. But not her.

15 MS. LEDERER: I'm asking her what she knew
16 about the statement or any information about what
17 Kharey Wise had said prior to going to the scene.

18 MR. MOORE: I understand. But what's she's
19 going to testify, some hearsay from some officer?

20 THE COURT: That's what she's going to say.
21 It's all hearsay. What somebody else told her is
22 hearsay. All the other hearsay has been asked
23 about what people said, what information they had.
24 It's been in the record constantly and not objected
25 to.

1 Fairstein/direct/People 3036

2 MR. MOORE: Is this some surprise -- I just
3 want to know where we're going.

4 MS. LEDERER: I don't believe it's a surprise.
5 This witness will testify -- this witness
6 testified at the hearing and was cross-examined.
7 She will testify as to what she believed he had
8 indicated prior.

9 MR. MOORE: To Detective Nugent or to detective
10 --

11 MS. LEDERER: All I'm eliciting from this
12 witness is what was in her mind, what she knew
13 about what he had said about having been involved
14 or present or not involved or not present or behind
15 the tree.

16 You spent a good deal of time with the other
17 detective -- with Detective Sheehan, who was at
18 the scene.

19 MR. MOORE: This is Fairstein.

20 THE COURT: Let's cut this short. I'm going to
21 allow the testimony because the sense of this
22 entire trial has been that this information has
23 been brought out with every single witness who was
24 a police witness as to what they knew, who told
25 them what. I don't see how it's different with

1 Fairstein/direct/People 3037

2 this witness.

3 MR. MOORE: I understand. I want to know if
4 it's from Nugent or --

5 THE COURT: We'll know in a couple of minutes.
6 Do you know what she's going to say?

7 MS. LEDERER: No. I will not ask that either.

8 MR. MOORE: I'm not -- it's not an anonymous
9 source?

10 THE COURT: We'll strike it out if it's
11 anonymous. If she doesn't know who told her I'll
12 strike it.

13 She has no knowledge who she spoke to?

14 MS. LEDERER: I don't know.

15 THE COURT: We'll find out.

16 (Whereupon, the following occurred in open
17 court:).

18 Q Prior to going to the crime scene with Kharey Wise
19 on that morning, were you familiar with anything he had said
20 about his involvement in the assault on the female on the
21 night of April 19th in Central Park?

22 A Yes, I was.

23 Q And what did you know?

24 MR. MOORE: Objection as to form.

25 THE COURT: Objection sustained.

1 Fairstein/direct/People 3038

2 Q What, if anything, had you heard prior to going to
3 the crime scene?

4 MR. MOORE: Objection.

5 THE COURT: Sustained.

6 Q With whom did you speak regarding what Kharey Wise
7 had said prior to going to Central Park on the morning of
8 April 21st?

9 A Detective Sheehan.

10 Q And what, if anything, had you learned from
11 Detective Sheehan?

12 A That Kharey Wise had admitted being present at the
13 attack on the woman that area north of the cross drive but
14 said he was watching the attackers from behind a tree.

15 Q You indicated that Kharey Wise was at the scene and
16 was asked certain questions about what tree he had been
17 behind.

18 What was his response to that question from Detective
19 Sheehan?

20 A As I recall it, he tried to -- he made a circle
21 where he was trying to look for and point out trees. But
22 there was nothing close enough to put him in a position.
23 And he was never able to --

24 MR. MOORE: Objection.

25 THE COURT: Objection sustained. Just tell us

1 Fairstein/direct/People 3039

2 what he did.

3 A He looked for a tree. And then he said he couldn't
4 find the tree that he had hid behind.

5 Q After he said that, what was the next thing that
6 happened?

7 A Detective Sheehan told him he could go back to the
8 car. And he did.

9 Q And did you and Detective Sheehan then also go back
10 to the car?

11 A Yes.

12 Q And did you leave the crime scene?

13 A Yes, we did.

14 MS. LEDERER: I'd ask that the witness please
15 be shown what's been received in evidence as
16 People's 97?

17 Q Do you recognize People's 97?

18 A Yes, I do.

19 Q And what do you recognize that to be?

20 A I recognize it to be a photograph of a portion of
21 the area in which Detective Sheehan and I were present that
22 morning, and to which we took Kevin and Kharey.

23 Q In People's 97 in evidence are you able to see the
24 location where you and Detective Sheehan called Kevin
25 Richardson and then Kharey Wise in the vicinity of the area

1 Fairstein/direct/People 3040
2 of blood?

3 A I believe I can identify -- the prospective is
4 different, but I --

5 Q If you could turn and show the photograph to the
6 members of the jury and point out where you and Detective
7 Sheehan were and indicate where Kevin Richardson was and
8 where Kharey Wise was?

9 A May I describe what we did?

10 THE COURT: She asked you to point out the
11 areas.

12 A Detective Sheehan and I walked past this tree and
13 up this area and were about here, which is where --

14 Q Indicating the area of the fallen trees.

15 A Closer than the fallen tree. Each of the
16 defendants approached us this way. And the blood was on the
17 ground in the area between where we were standing and the
18 direction from which they singly approached us.

19 MS. LEDERER: I ask if the witness could please
20 be shown People's 94 in evidence?

21 Q Do you recognize what 94 in evidence is?

22 A Yes, I do.

23 Q And what is reflected in People's 94 in evidence?

24 A It is a shot of the same area from a different
25 direction. And what I referred to as I believe dried blood

1 Fairstein/direct/People 3041

2 or a red stain is visible on the leaves.

3 Q Could you hold the photograph -- the exhibit so
4 the members of the jury can see it?

5 A The area I'm pointing to on the lower left part of
6 the photograph is the red stain area.

7 Q And where were you and Detective Sheehan, if you
8 can indicate that, in this exhibit, and where was Kevin
9 Richardson and Kharey Wise?

10 A Detective Sheehan and I were standing, I would say
11 would be right off the side, to the left of where the blood
12 is. And the young men each approached us and were on this
13 side, the top side.

14 Q When you say, "the top side," are you referring --
15 would that be downhill from where the blood is?

16 A Downhill and north actually.

17 Q Thank you very much. When you left the crime scene
18 on that morning, where did you go? Let me withdraw that
19 question and ask you another.

20 Did you return to the 24th Precinct at that time?

21 A Yes, we did.

22 Q And approximately how long had the entire trip
23 lasted from the time you left the station house with Kevin
24 Richardson and Kharey Wise until the time you returned?

25 A Thirty-five minutes travel time included.

1 Fairstein/direct/People 3042

2 Q Where did you go when you return to the 24th
3 Precinct?

4 A We returned, all of us returned back to that second
5 floor large squad-room.

6 Q And did you see where Kevin Richardson went upon
7 returning to the 24th Precinct?

8 A Yes. He returned to where at least his father and
9 I believe some other female members of his family were
10 present.

11 Q Did you see where Kharey Wise went upon returning
12 to the precinct?

13 A Yes. He went back to, if not the desk he had been
14 at, an adjacent desk in a large room.

15 Q At any time on the morning of April 21st of 1989
16 did you see Kharey Wise eat anything?

17 A Yes.

18 MR. MOORE: Did you see what?

19 MS. LEDERER: Kharey Wise eat anything.

20 Q And approximately when was that, if you recall?
21 And what was that?

22 A When we returned from the park, a lot of food had
23 been brought into the precinct. And I brought food into
24 several of the young men there, including Mr. Wise. I gave
25 him donuts and juice.

1 Fairstein/direct/People 3043

2 Q I'd like to direct your attention now to 10:30 p.m.

3 On the evening of April 21, 1989 where were you at about
4 that time on that date?

5 A I was in -- still on the second floor of the
6 squad-room in I believe it's Captain Blando's office. One
7 of the small offices that actually has a door in that room.
8 And I came out of that door at about 10:30 to come into the
9 large room for a particular purpose.

10 Q Do you know where Kharey Wise and Kevin Richardson
11 were at that time?

12 A Yes.

13 Q And where were they?

14 A Shortly before that time they had been placed in a

15 --

16 MR. DILLER: Objection. Not responsive.

17 THE COURT: Where were they at that time?

18 THE WITNESS: In a holding pen, an area with
19 bars that was in the same -- on the same floor,
20 an alcove of the same large room that we had been
21 in the better part of the day.

22 Q Were any other people in the holding cell with
23 Kharey Wise and Kevin Richardson?

24 A I believe, yes, at that time. Yes, definitely.

25 Q Do you know who else was in the holding cell at

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Fairstein/direct/People

3044

that time?

A I believe I know some of the other people who were.
Yusef Salaam, Antron McCray. I believe Raymond Santana. I
believe Clarence Thomas. And maybe Michael Briscoe.

Q In the room that you're describing, in the holding
cell that you're describing in that alcove, is there a door
between that alcove and the squad-room?

A There is no door.

Q And where were you at about 10:30 in relation to
that room with the holding cell?

A I left the captain's office and came out to a desk,
which is the closest desk to the holding cell, to use a
telephone on that desk to make a phone call.

Q From that position approximately how close were you
to the holding cell itself?

A Between eight and ten feet from the holding cell.

Q Did you see Kharey Wise at that time?

A Yes, I did.

Q And would you describe where you saw him?

A He was standing in the holding cell. He was the
closest person to me. He was standing with his back to the
wall, his side to the bars. Others were seated on the floor
or on benches. And he was against the outermost corner of
the cell.

1 Fairstein/direct/People 3045

2 Q In the position that you've just described seeing
3 him, what part of his body was facing the direction -- was
4 facing you?

5 A The side of his body and the side profile of his
6 face.

7 Q And at that time did you hear Kharey Wise have a
8 conversation?

9 A Yes, I did.

10 Q Were you able to see with whom he had that
11 conversation?

12 A Yes.

13 Q What, if anything, did you hear Kharey Wise say?

14 MR. MOORE: Objection.

15 THE COURT: I'll allow it.

16 A He said, "did you tell them about the guy who was
17 running who said to us, 'do you want to race?'"

18 Q Was a response made to what Kharey Wise said?

19 A Yes.

20 Q And what was the response?

21 A Someone I couldn't identify or see said, "yeah".

22 MR. MOORE: Objection.

23 Q Did Kharey Wise say something else?

24 A Yes.

25 Q And what did he say?

1 Fairstein/direct/People 3046

2 A Kharey said, "I did, too. That was funny."

3 Q And did he do anything when he said that?

4 A He laughed.

5 Q Did you have any conversation yourself with Kharey
6 Wise at that time?

7 A I did not.

8 Q And did you -- did there come a time when you
9 left the area by the holding cell?

10 A Yes.

11 Q Miss Fairstein, were Kharey Wise's clothes
12 vouchered in the course of this investigation?

13 A No. They were not vouchered.

14 Q Thank you very much.

15 MS. LEDERER: I have nothing further

16 CROSS EXAMINATION

17 BY MR. DILLER:.

18 Q Good morning, Miss Fairstein.

19 A Good morning, Mr. Diller.

20 Q I'm going to direct your attention to the morning
21 of the 21st of April of '89.

22 And you testified that you were at the 24th Precinct, is
23 that correct?

24 A Correct.

25 Q And the 24th Precinct is where?

1 Fairstein/cross/Mr. Diller 3047

2 A It's on West 100th Street between Columbus and
3 Amsterdam Avenues.

4 Q Now, at 7 o'clock in the morning you were with
5 Detective Sheehan, is that correct?

6 A Yes.

7 Q And you saw Kevin Richardson and his father Paul,
8 is that right?

9 A Yes. I didn't know his father's first name.

10 Q And there were some women there with them?

11 A I believe there were.

12 Q And did you come to know who they were?

13 A No.

14 Q Had you ever seen Kevin before?

15 A Yes.

16 Q Have you spoken to him?

17 A No.

18 Q And you were aware, were you not, that Kevin had
19 given a written statement and a video statement by that
20 time?

21 A Yes, I was.

22 Q You were not present when either of those
23 statements were taken, were you?

24 A I was present in the station house, but not in the
25 room.

1 Fairstein/cross/Mr. Diller 3048

2 Q Did you see the written statement?

3 A I did not.

4 Q And did you see the video at that point?

5 A No, I did not.

6 Q Now, am I correct, that you introduced yourself
7 through Detective Sheehan?

8 A Yes. To --

9 Q To Kevin?

10 A Yes. Detective Sheehan introduced me to Kevin.

11 Q Kevin. And to his father?

12 A Yes.

13 Q And Detective Sheehan was standing right next to
14 you, was he?

15 A Yes.

16 Q And you indicated to Kevin that you'd like him to
17 accompany you to the park, Central Park, is that right?

18 A I was speaking first to his father.

19 Q And you told his father, did you not, that you were
20 not going to ask any questions, is that right?

21 A Any additional questions other than to clarify the
22 statements that Kevin had already made with positions he had
23 referred to in the park.

24 Q When you say additional statements, does that mean
25 that you were going to ask questions, whatever purpose,

1 Fairstein/cross/Mr. Diller 3049
2 whether it's to clarify or for whatever purpose, you told
3 him that you were going to ask questions?

4 A No different questions than had been asked. He was
5 not going to be interviewed again at the park.

6 Q On another subject, is that what you --

7 A Right.

8 Q And you didn't give any Miranda warnings to Mr.
9 Richardson, is that right?

10 A Detective Sheehan was doing that while I was
11 talking to Mr. Richardson.

12 Q Would you say the atmosphere was rather friendly?

13 A It was very relaxed, yes.

14 Q Pleasant?

15 A Pleasant.

16 Q And indeed, you and Detective Sheehan had indicated
17 to Mr. Richardson that you were seeking the assistance and
18 cooperation of Kevin?

19 A Yes.

20 Q And you say that you asked Mr. Richardson to come
21 along, and he declined the offer?

22 A Told him he had the right to be present for this
23 because of Kevin's age. And he declined the offer.

24 Q And everything continued in a pleasant atmosphere,
25 is that correct?

1 Fairstein/cross/Mr. Diller 3050

2 A He was a perfect gentleman.

3 Q Now, when you left the station house, the 24th on
4 West 100th Street, where did you go?

5 A Detective Sheehan drove north, I believe, on
6 Central Park West. And we went -- we had to go north to
7 enter the park, corner of 109th or 110th Street entrance.

8 Q Let me ask you this, who was in your car?

9 A Detective Sheehan was driving. I was in the front
10 seat with him. In the back seat were Detective Jonza in the
11 middle of Kharey Wise and Kevin Richardson.

12 Q Now, I recognize it's a year -- over a year and a
13 half ago. But are you positive that at the time about which
14 you are speaking Kharey Wise and Kevin Richardson were in
15 your automobile?

16 A I am positive, sir.

17 Q And that they were not in an automobile driven by
18 two detectives? I don't mean Sheehan and Jonza.

19 A I remember distinctly --

20 Q It was the same car?

21 A Same car. They were both behind me. They were not
22 handcuffed.

23 Q Now, how did the car -- Detective Sheehan was
24 driving, you say, is that right?

25 A Yes.

1 Fairstein/cross/Mr. Diller 3051

2 Q And you were seated next to him in the front?

3 A Yes.

4 Q You remember that well?

5 A I do.

6 Q How did you get into the park?

7 A We entered what I would call the northwest corner
8 of the park. I don't know the exact street location. I
9 believe it to be 109th or 110th. And then drove south on
10 the roadway until we reached the cross drive at 102nd. And
11 we drove east on that.

12 Q He didn't enter on a Hundred Street?

13 A I remember going up and south.

14 Q How long did it take you to get to the place where
15 you stopped?

16 A With traffic lights, getting in the car, I estimate
17 ten to fifteen minutes.

18 Q This was 7 o'clock in the morning, is that right?

19 A That's right.

20 Q As you reflect back, there was no traffic?

21 A I don't remember anything -- any traffic
22 conditions.

23 Q Would it be fair to say that it took perhaps just
24 two or three minutes?

25 A I don't think it was that fast just because of

1 Fairstein/cross/Mr. Diller 3052

2 traffic lights and normal morning traffic.

3 Q Well, traffic lights -- you were in a police car,
4 were you not?

5 A We were not taking lights. We weren't in an
6 emergency situation. We were in an unmarked car.

7 Q Now, where did you go when you made your first
8 stop?

9 A The first stop, we were actually stopped by a
10 patrol car who wanted us to identify ourselves and determine
11 our purpose.

12 Q And there came a time when you say your car
13 stopped, correct? You got out of the car and spoke with
14 Detective Sheehan?

15 A Yes.

16 Q Detective Jonza remained in the car?

17 A Yes.

18 Q You say the two defendants remained in that car?

19 A Yes.

20 Q There were no other detective cars that accompanied
21 you?

22 A At that time, no.

23 Q And there came a point where you say Detective
24 Sheehan called Kevin out of the car?

25 A Yes.

1 Fairstein/cross/Mr. Diller 3053

2 Q And you say that Sheehan asked him, "does this look
3 familiar"?

4 A Yes.

5 Q What area are we talking about?

6 A We were talking -- are talking about the paved
7 roadway in the park, on 102nd Street.

8 Q You're not talking about the ravine?

9 A No, no.

10 Q You're positive?

11 A Oh, yes.

12 Q Where did you stop the car? Where did Detective
13 Sheehan stop the car?

14 A He stopped it when he was stopped in that roadway.
15 I can't tell you, since it's not by a street corner --

16 Q He was on the paved road?

17 A Definitely on a paved road.

18 Q And where did you go when you exited the car?

19 A Just pulled the car over to the side. And we got
20 out and started to walk around the area, led by a uniformed
21 patrolman.

22 Q And it was at that point where you say Detective
23 Sheehan says, "does this look familiar"?

24 A After Kevin got out, yes.

25 Q And you've indicated to us this morning, did you

1 Fairstein/cross/Mr. Diller 3054

2 not, that Kevin said to you, "this is where we got her?"

3 A Yes, sir.

4 Q And you're quite positive about that?

5 A Yes, I am.

6 Q Now, you made notes with respect to this, did you

7 not?

8 A At that time I did not.

9 Q I didn't ask that. Did you make notes with respect

10 to that?

11 A Yes.

12 Q When did you make the notes?

13 A I believe it was the following Monday. That was a

14 Friday morning. And I believe four days later.

15 Q When you made the notes, number one, where were

16 you?

17 A In my office on Hogan Place.

18 Q And when you made the notes was Detective Sheehan

19 with you?

20 A No, he was not.

21 Q Do I -- withdrawn.

22 Am I correct in saying that when you made the notes on

23 that Monday you were alone?

24 A I was.

25 Q And you made the notes out of memory?

1 Fairstein/cross/Mr. Diller

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2 A Yes, I did.

3 Q And you wrote down in your notes -- at what time
4 was the statement made? In your notes you wrote down the
5 time, right?

6 A I wrote down I believe the approximate time we --
7 I started working on this aspect.

8 Q I'm asking, did you write down the time that that
9 statement was made?

10 A That statement as opposed to --

11 Q That statement, "this is where we got her"?

12 A I don't think I put a time next to it, as I
13 remember.

14 Q Did you ever discuss that with Detective Sheehan?

15 A No.

16 Q Was he standing with you the whole time?

17 A The whole time that Kevin was out of the car?

18 Q Yes.

19 A I think we were within feet of each other.

20 Q Kevin did not whisper that to your ear, did he?

21 A No, he did not.

22 Q Kevin did not take you to the side and say, I have
23 something I'd like to tell you, did he?

24 A No, he did not.

25 Q Now, you hear Kevin say, "this is where she was

1 Fairstein/cross/Mr. Diller 3056

2 snatched or grabbed"?

3 A I don't believe I did.

4 Q Do I understand that there was a time that you were

5 paying attention to something else going on in the park?

6 A No, sir.

7 Q Now, what happened when Kevin -- there came a

8 time when Kevin returned to the car, did he not?

9 A Yes.

10 Q He went in the back seat?

11 A Yes.

12 Q Jonza was there?

13 A Yes.

14 Q And so was Kharey Wise, right?

15 A Yes.

16 Q Where did they go? Where did you all go?

17 A We then drove down the hill side to the pathway

18 below -- by the stream.

19 Q By the ravine?

20 A By the stream, I said. It was the bottom of what I

21 call the ravine, yes.

22 Q So you went from the top to the bottom, is that

23 right?

24 A By going around.

25 Q You didn't go from the bottom to the top?

1 Fairstein/cross/Mr. Diller

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2 A No.

3 Q You sure?

4 A That's my recollection, yes.

5 Q You make notes of that?

6 A At the time, no.

7 Q You didn't make any notes at the time, right?

8 A Right.

9 Q But the Monday following? Whenever you made the
10 notes, did you make notes as to the routine, the sequence?

11 A I believe what you have reflects what my order was,
12 yes.

13 Q I don't have anything. I'm asking you, did you
14 make any notes as to what you did first and what you did
15 next?

16 A I believe that the order in which I made the notes
17 was the order that I recall things were done.

18 Q Now, when you got down to by the stream or the
19 ravine, did the car go there, too?

20 A Yes. We went by car.

21 Q And the five of you were in the car, right?

22 A Yes.

23 Q And then you and Sheehan get out of the car, is
24 that right?

25 A That's right.

1 Fairstein/cross/Mr. Diller 3058

2 Q And when you got out of the car, you and he have a
3 conversation, do you?

4 A We did.

5 Q And then you called Kevin out of the car, right?

6 A First we walked and had a conversation with the
7 other police officer. We walked a distance. And then we
8 asked Kevin to come over.

9 Q Is that where you saw also what appeared to be
10 dried blood?

11 A Yes.

12 Q And that's where you say that Kevin said that,
13 "this is where it happened, the raping"?

14 A Yes.

15 Q And that you put in your notes, too?

16 A Yes.

17 Q And then you went back to the car, is that right,
18 after the colloquy with Kevin?

19 A No. Kevin went back to the car. And Kharey came
20 up to us.

21 Q There came a time when the five of you were back in
22 the same squad car, is that right?

23 A Yes.

24 Q Where did you go?

25 A We went to Central Park West and either the corner

1 Fairstein/cross/Mr. Diller 3059
2 of 96th or '7th Street.

3 Q What did you do there?

4 A We got out of the car. And I examined an area
5 where there was scaffolding, where there were broken light
6 bulbs.

7 Q You didn't go straight back to the precinct?

8 A No. Stopped for about one minute at the
9 scaffolding.

10 Q Get out of the car?

11 A Only I got out of the car.

12 Q And that was where, what street?

13 A That was at Central Park West. And it was the
14 northwest corner of either 96th or 97th.

15 Q You exit the park at what street?

16 A I don't even remember where the exit is there.

17 Q 97th Street refresh you?

18 A It doesn't. I accept it. I just don't remember.

19 Q When you get to Central Park West, you go south on
20 Central Park West, that is Sheehan does?

21 A I don't know if we went south. We went to the
22 corner where there was scaffolding, where there were broken
23 light bulbs.

24 Q And you and he got out of the car?

25 A I think I may have been the only person to get out.

1 Fairstein/cross/Mr. Diller 3060

2 Q No conversation with Kevin at that point?

3 A Not at that point, no.

4 Q You returned back to the car?

5 A Yes.

6 Q And returned to the precinct, do you?

7 A Yes.

8 Q What happens when you return to the precinct?

9 A We all five of us returned to the room from which

10 we had left.

11 Q Do you see anyone there?

12 A Yes.

13 Q Who do you see?

14 A Kevin's father was there. And I believe there were

15 at least two women with him. But I can't be certain of

16 that. I saw a number of other young men, a number of

17 civilian adults, and a number of detectives.

18 Q Did you have any conversation with Kevin's father?

19 A No.

20 Q What happened next?

21 A I continued to work on other aspects of the

22 investigation.

23 Q Did you see Detective Hartigan?

24 A I did not.

25 Q Did you ever go back to the park with Kevin?

1 Fairstein/cross/Mr. Diller 3061

2 A I went back to the park again that morning, yes.

3 Q No. That's not my question. I'll say it again.

4 Did you go back to the park with Kevin Richardson?

5 A Not in a car with Kevin Richardson, no.

6 Q 21st of April.

7 A Yes.

8 Q '89.

9 A Yes, sir.

10 Q 8:30 a.m..

11 A Yes.

12 Q Where were you?

13 A I believe back at the 102nd Street cross drive in

14 the park.

15 Q At 8:30 a.m.?

16 A Approximately, yes.

17 Q At 8 a.m. where were you?

18 A I'm not certain if I was in the park or at the

19 precinct.

20 Q Well, I know you don't have notes in front of you.

21 You leave the precinct 7 o'clock in the morning and go to

22 where you described?

23 A Uh-huh.

24 Q There comes a point that you leave the park and go

25 to the vicinity of 96th or 97th Street and Central Park West

1 Fairstein/cross/Mr. Diller 3062

2 to examine some scaffolding, am I correct?

3 A Some light bulbs.

4 Q Where there was scaffolding?

5 A Right. I examined the light bulbs, though.

6 Q Light bulbs.

7 And then you returned to the precinct?

8 A Uh-huh.

9 Q Which is West a Hundred Street?

10 A Yes.

11 Q When you returned to the precinct, what time was
12 that?

13 A I would estimate it at 7:30 or 7 -- between 7:30
14 and 7:45.

15 Q Kevin exits the car with you?

16 A Yes.

17 Q You return him to his father and the women?

18 A Yes.

19 Q The question I asked, do you then return to the
20 park? Question, do you return to the park?

21 A Yes, I did.

22 Q When did you return to the park?

23 A I honestly don't know the exact time. I don't know
24 whether it was 8:30 or 9. Within -- I think within the
25 next hour at that point.

1 Fairstein/cross/Mr. Diller 3063

2 Q Well, within the next hour. If you got to the
3 station house approximately 7:30, 7:45, right?

4 A Uh-huh.

5 Q If it was the next hour, it would have been
6 approximately 8:30 or 8:45, is that correct?

7 A Yes.

8 Q And you say you returned to Central Park?

9 A Yes.

10 Q With whom did you return to Central Park?

11 A I returned in a car with Detective Sheehan, Miss
12 Lederer, Mr. Clements and Michael Manion, who is a video
13 technician from our office.

14 Q Then I ask you, did Kevin go to the park?

15 A Kevin was taken to the park by someone else, yes.

16 Q At that time?

17 A At that time.

18 Q And by whom was he taken?

19 A I don't know.

20 Q Did you see Kevin in the park?

21 A Yes.

22 Q Where did you see him?

23 A I remember seeing him in, I believe, the lower
24 area, meaning not the roadway, but the wooded lower area on
25 the side of the ravine, I believe.

1 Fairstein/cross/Mr. Diller 3064

2 Q Where you were before?

3 A Yes.

4 Q Did you see with whom he was?

5 A He was in the presence of a detective. I don't
6 remember now which detective it was.

7 Q Was there one detective?

8 A I don't know.

9 Q Was there anyone else there?

10 A Only other people I remember being there were news
11 people, which caused us to leave.

12 Q Was Kharey Wise there?

13 A I don't -- I didn't see him.

14 Q Now, were you doing something completely outside
15 this investigation when you went back?

16 A No. I was working on this investigation.

17 Q You saw the defendant or whatever we call him,
18 youth, with whom you were just an hour or so before with you
19 and Detective Sheehan. Now you see him in the park again,
20 is that right?

21 A Yes.

22 Q He wasn't in the park again because of your
23 direction, was he?

24 A No.

25 Q It's apparent someone else asked him to come to the

1 || Fairstein/cross/Mr. Diller 3065

2 park?

3 A I accept that.

4 Q And did you determine why he was going into the
5 park again?

6 A At that time I did not.

7 Q Did you go over to the detective, whoever he be,
8 and ask him, what's going on here?

9 A I did not, because I was not charged the
10 investigation.

11 Q Can I infer that you were not concerned about it at
12 that time?

13 A I was concerned about everything having to do with
14 this matter that day.

15 Q Wasn't it important that you spend time with Kevin
16 Richardson at about 7 or 7:30, and you see him in the park
17 again completely unarranged by yourself, wasn't that
18 important to you?

19 A Other people --

20 MS. LEDERER: Objection.

21 THE COURT: I'll allow it.

22 A Other people were directing the investigation.

23 (Continued on the following page.)

24

25

Fairstein / Defense / Cross (Diller)

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T 4

Q. Well, you were privy, as the highest ranking member of the District Attorney's Office at the site. Were you not?

A. Yes.

Q. So would it be fair to say that you were privy to everything that was going on?

A. Yes.

Q. And being privy to everything that's going on, is it asking too much to wonder why the subject is in a park and you didn't know about it?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q. By the way, you say you don't remember the officer that was there. Is that right?

A. Yes.

Q. If I mentioned the name Detective Second Grade John Hartigan, would that refresh your recollection?

A. Not the fact of seeing him that day. I don't dispute it. There were so many detectives involved in the investigation, I can't tell you who was where at what time.

Q. Did you ever speak to Detective Hartigan with respect to Kevin Richardson?

A. On the 21st of April?

Michael Frankel, Sr. Court Reporter

1 Fairstein / Defense / Cross (Diller)

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2 Q. Yes, that morning.

3 A. I don't remember talking to him that day.

4 Q. Did you know that Detective Hartigan took a
5 written statement from Kevin Richardson? At that time.

6 MR. DILLER: Withdrawn.

7 Q. My question is; on the 21st, you know, in the
8 vicinity of 8:00 o'clock in the morning, did you know that
9 Detective Hartigan took a written statement?

10 A. I believe I knew that.

11 Q. Did you know Detective Hartigan was also present
12 when there was a video statement?

13 A. I knew a detective was present with Miss Lederer.
14 But I can't recall I knew which one.

15 Q. And you can't recall having any colloquy with
16 Detective Hartigan in the vicinity of 8:00, 8:30 in the
17 morning?

18 A. I really don't remember. It may have happened. I
19 don't remember.

20 Q. Did you have any other conversation with Kevin,
21 that morning?

22 A. No, I did not.

23 Q. What happened --

24 MR. DILLER: Withdrawn.

25 Q. There came a time that you left the park. Is that

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Fairstein / Defense / Cross (Diller)

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1
2 right?

3 A. Yes.

4 Q. Now, when you left the park, you left because the
5 conditions weren't good for you to be there, namely the
6 media. Is that correct?

7 A. The second time we were there? Yes.

8 Q. And you all returned to the 24th Precinct?

9 A. Yes.

10 Q. What time was it that you returned, that you
11 actually arrived?

12 A. After the second park visit, I honestly don't -- I
13 can't put an exact time on it.

14 Q. When you arrived, did you go back to the squad
15 room?

16 A. Yes.

17 Q. And did you see Kevin Richardson?

18 A. When exactly, Mr. Diller? Did I see Kevin when?

19 Q. In other words, you go to the park. Your second
20 visit.

21 A. Ah ha.

22 Q. With the people you describe. You get to the
23 park. There was media there. It wasn't right for you to do
24 whatever you were planning to do. You all returned to the
25 precinct, the 24th.

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MS. LEDERER: Objection as to form.

THE COURT: I'll allow it.

Go ahead.

Q. Is that right?

A. We returned to the precinct after the second visit. Yes.

Q. I ask you, if you could tell us approximately what time it was that you returned to the precinct?

A. I said I wasn't certain. It was in the area of 9:00 o'clock. But it could have been a half hour either way.

Q. The next question I asked you; when you returned, you went to the squad room. Didn't you?

A. Yes.

Q. In the squad room, did you see Kevin Richardson?

A. I don't remember whether or not he was in the room when I walked back in after the second visit. But I saw him in that room later the same morning.

Q. I'm asking the question; when you returned to the squad room, was he sitting there? That's the question.

A. I don't remember if he was there at the moment when I got back in or we came back within minutes of each other.

Q. Did you see Detective Hartigan?

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A. I don't remember if I did or not.

MR. DILLER: I have no further questions.

THE COURT: Mr. Moore?

CROSS-EXAMINATION BY

MR. MOORE:

Q. Miss Fairstein, you indicated to Mr. Diller that you made some notes the following Monday. Am I correct?

A. Yes, sir.

Q. Do you have those notes with you?

A. I have a copy of those notes.

Q. Do you?

A. Yes.

Q. Can I have a look at them?

(Given to Mr. Moore.)

MS. LEDERER: Your Honor, so the record is clear --

THE COURT: No record is necessary.

Just proceed.

MR. MOORE: Just one moment while I look at these.

MS. LEDERER: May we approach for a moment?

THE COURT: No.

Q. Now Miss Fairstein, you indicated that you are the head of the Sex Crimes Unit of the District Attorney's

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Fairstein / Defense / Cross (Moore)

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Office. Am I correct?

A. Yes.

Q. And that you were in charge of this investigation.
Am I correct?

A. No, I didn't say that. Miss Lederer was in charge
of the investigation.

Q. As head of the Sex Crimes Unit, you do have
over-all responsibility. Do you not?

A. In that sense, yes.

Q. Miss Lederer was in fact working under you.
Wasn't she?

A. I assigned this case to her.

Q. No. I understand.

She's a member of the Sex Crimes Unit. Am I
correct?

A. Yes.

Q. But you're the person in charge. Aren't you?

A. My title, yes.

Q. In fact, by title and in fact.

A. Yes. For administrative purposes, yes.

Q. You were the one that assigned Miss Lederer to do
the foot work in the investigation. Am I correct?

A. To do the entire investigation, yes.

Q. There was a time you were at the 24th Precinct.

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Fairstein / Defense / Cross (Moore)

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Am I correct?

A. Yes.

Q. Approximately what time did you arrive at the precinct?

A. At the 24th Precinct, I believe it was about midnight the 20th going into the morning of the 21st.

Q. Right.

And when you were there, you had arranged for the video unit to be at the 24th Precinct as well. Is that correct?

A. Miss Lederer had, yes.

Q. And in fact, the video technicians, the three video technicians had taken a series of statements from various individuals. Am I correct?

A. The technicians taped the statements Miss Lederer took, yes.

Q. Between the hours of 1:00 o'clock in the morning to 8:00 o'clock that following morning, several statements had been taken from various individuals. Am I not correct?

A. Yes. That's correct.

Q. 1:00 o'clock you had taken a statement from Antron McCray. Did you not?

A. I had not, no.

Q. Miss Lederer had?

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Fairstein / Defense / Cross (Moore)

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1
2 A. Yes.

3 Q. 2:30 a statement had been taken from Raymond
4 Santana. Correct?

5 A. Yes.

6 Q. 3:38 a statement had been taken from Steven Lopez.
7 Correct?

8 A. I believe so.

9 Q. And at 6:15 even a statement from Clarence Thomas?

10 A. You're referring to times. I know those
11 statements were made. I don't have the times in front of
12 me. Yes.

13 Q. And later on that morning -- I'm sorry.

14 Now, you were aware of the fact that Kharey Wise
15 had been interviewed by Detective Hartigan?

16 A. Yes.

17 Q. And that he had made a or submitted a written
18 statement. Is that correct?

19 A. I believe I knew that. I learned that he had, at
20 some point.

21 Q. And you were aware of the fact that when you went
22 to speak to Kharey Wise that morning, a video taped
23 statement had not been taken from Kharey Wise. Am I
24 correct?

25 A. That's right.

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Fairstein / Defense / Cross (Moore)

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Q. And did you ever ascertain from Miss Lederer why is it that a written statement had been taken and a video had not been made of this individual?

A. I knew that. I knew the reason.

Q. You knew the reason?

A. Yes.

Q. And what was the reason?

A. The reason was that Miss Lederer had been doing video statements from midnight that night, without stop, throughout the entire morning and could only do one at a time.

Q. Well, were you aware of the fact that the last video taped statement had been taken of Kevin Richardson at about 4:50 that morning? Were you aware of that fact?

A. I don't have the times in front of me. I don't know. As I said, the statements were taken.

Q. Could I show you --

MS. LEDERER: Could I see what that is, Mr. Moore?

Would you mark it?

THE COURT: Mark it for identification.

COURT CLERK: K.

(So marked.)

(Shown to D.A..)

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(Given to witness.)

Q. Okay.

Does that refresh your recollection as to when the statement from Kevin Richardson had been taken?

A. Yes. Or it has a time on it. I don't dispute that.

Q. Okay.

So it was in fact taken about 4:50 that morning. Isn't that correct?

A. Yes.

Q. And when was the next statement taken from another individual after 4:50?

A. The next video statement?

Q. Yes.

A. She was taking other interviews and statements between the videos as well. The next video statement began, according to the sheet you give me, at 6:50 a.m..

Q. So the statement is fully two hours after the last video statement of Kevin Richardson. Is that correct?

A. No, sir.

Q. Was it approximately two hours?

A. No, sir.

Q. How long was it?

A. Just a little over one hour. You have the time

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the video of Kevin began. You don't have the time it took to take the statement actually.

Q. There was an hour interval between the end and the beginning of the next statement. Is that correct?

A. Only of the next video statement.

Q. Yes.

So there was -- wasn't there enough time to take a video statement of Kharey Wise?

MS. LEDERER: Objection.

THE COURT: Sustained.

Q. And the next statement of Clarence Thomas commenced about what time?

A. About 6:50 in the morning.

Q. Okay.

And it was completed approximately what time?

A. I'm not sure that I see any list of the duration.

Q. About how long was it?

A. I don't know.

Q. Is there an indication?

A. There doesn't appear to be. It doesn't say how long.

(Exhibit given to Mr. Moore.)

Q. Okay.

(Exhibit given to witness.)

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Q. So the statement of Clarence Thomas was taken at about 6:50. Is that correct?

A. It began to be recorded at about 6:50. Correct.

Q. And the next video taped statement was not taken until about 9:25. Is that correct?

A. That appears to be correct.

Q. Okay.

So there was a three hour interval between the beginning of Clarence Thomas' statement and the beginning of the next statement. Is that correct?

A. No, sir. The next video statement -- there were other statements taken in between, that are not recorded on this sheet you have given me.

Q. I'm speaking of video.

A. Yes.

Q. There was a three hour interval. Is that correct?

A. Yes.

Q. Now, did you -- before you spoke to Kharey Wise that morning, did you have a conversation with Miss Lederer?

A. I had many conversations with her.

Q. And did you try to ascertain from her, why Kharey Wise's video taped statement had not been taken of Kharey Wise?

A. No, sir.

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1 Fairstein / Defense / Cross (Moore)

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2 As I said, I knew why it had not been taken.

3 Q. And the reason was because there were a series of
4 other interviews being taken. Is that correct?

5 A. Because she was ceaselessly interviewing witnesses
6 from 8:30 the preceeding evening throughout that morning and
7 the rest of the entire next day.

8 Q. So that was the only reason why?

9 A. Everything was done in order.

10 Q. So the only reason why a video taped statement was
11 not taken from him was because she was ceaselessly involved
12 taking video taped statements.

13 MS. LEDERER: Objection.

14 THE COURT: I'll allow it.

15 Q. Is that correct?

16 A. I don't know if that's the only reason.

17 Q. But that's the reason you have stated.

18 A. That's one of the reasons.

19 Q. Now Miss Fairstein, there came a time when you
20 spoke to Kharey Wise. Am I correct?

21 A. Yes, sir.

22 Q. And you knew at the time that he had made -- that
23 he had given a statement, a written statement. Is that
24 correct?

25 A. I had been told.

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Fairstein / Defense / Cross (Moore)

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Q. You had been told by whom?

A. I believe I had the information from Detective Sheehan.

Q. And do you know who the detective was that was assigned to Kharey Wise, to take statements from him?

A. I don't remember.

Q. Does the name John Haritgan ring a bell?

A. It rings a bell because I know Detective Hartigan. But it doesn't refresh my recollection about that day.

Q. So you did not know that Detective Hartigan was the detective who was assigned to interview Kharey Wise?

A. I did not. I don't recall it now.

Q. And you made no attempts to find out who the detective was that was assigned to interview Kharey Wise?

A. I don't recall -- I remember speaking to Detective Sheehan about it but not to anyone else that morning.

Q. Didn't you know that Detective Sheehan was never assigned to interview Kharey Wise?

MS. LEDERER: Objection.

THE COURT: I'll allow it.

A. Specifically? No.

Q. Now, there came a time when you -- when you spoke to Kharey Wise. Am I correct?

A. Yes, sir.

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Q. And you indicated that you understood from Detective Sheehan that he had indicated that he was at the crime scene. Am I correct?

A. Yes.

Q. And did you ask Detective Sheehan the basis of his statement, that he was at the crime scene?

A. Yes.

Q. And did Detective Sheehan indicate the basis of that information?

A. Yes.

Q. What was that basis?

A. That Kharey had said that to someone, to a detective -- it was a statement that Kharey himself had made about his involvement.

Q. Well, as the head of the Sex Crimes Unit and the person in over-all charge, did you ask who Kharey said that to?

MS. LEDERER: Objection.

THE COURT: That's two different questions.

Q. Did you ever ask from Sheehan who Kharey had said that to?

A. I might well have. I don't remember.

Q. You didn't record it in your notes?

A. I didn't take any notes.

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Q. Now, it was your purpose to take Kharey to the crime scene. Am I correct? That was your purpose in speaking to him that morning. Am I correct?

A. To ask him to accompany me, yes.

Q. That was 7:00 o'clock in the morning?

A. About that.

Q. Did you know what time he had been brought to the precinct?

A. I don't know now what time. I may have known then.

Q. You don't recall if you knew then?

A. No, I don't.

Q. Before you questioned him, did you ask him if he had slept that night?

A. I didn't ask him that. No.

Q. Did you ask him if he had eaten since he had come to the precinct?

A. Not until I gave him food.

Q. No. When you first saw him at 7:00 o'clock, did you ask him, "Kharey, did you have anything to eat?"

A. I didn't ask him that then.

Q. Now, was he under arrest at that time, 7:00 o'clock in the morning?

MS. LEDERER: Objection.

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2 THE COURT: Objection sustained.

3 Q. Now, you indicated that you --

4 Well, you weren't interested, of course, in his
5 health. Were you?

6 MS. LEDERER: Objection as to form.

7 THE COURT: I'll allow it.

8 Q. Were you?

9 A. Was I interested in his health? I was interested
10 in his physical condition.

11 Q. Well, you were going to take him to the crime
12 scene. Am I correct?

13 A. Right.

14 Q. And he was going to be video taped later on. Is
15 that correct?

16 A. If he consented to be. If he was willing to be.
17 I believe that was the plan.

18 Q. And you knew that he had been brought to the
19 precinct since about seven or eight hours before. Is that
20 correct?

21 A. I don't remember when he was brought there.

22 Q. But sometime before?

23 A. Sometime before I saw him, yes.

24 Q. So you didn't inquire about whether he had sleep
25 or whether he had eaten anything. Correct?

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A. I did not ask him those questions.

Q. Because you were not interested. Correct?

A. No, that's not correct.

Q. You were interested in the statement. Isn't that what you were interested in getting?

A. I was interested in the entire investigation. I believe I had made observations about his physical condition.

Q. And you were interested in finding out if he was implicated in this incident. Am I not correct?

MS. LEDERER: Objection as to form, your Honor.

THE COURT: Yes. Objection sustained.

Q. Weren't you interested in finding out the degree of his participation in the attack on the female jogger?

A. Yes, I was.

Q. And that was your prime responsibility. Wasn't it?

A. No.

Q. You had other responsibilities?

A. That was Miss Lederer's prime responsibilities.

Q. But that was your over-all responsibilities, since you were in charge of the Sex Crimes Unit.

A. I was participating in assisting, yes.

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Q. As a matter of fact, you were there on the scene, at the 24th Precinct?

A. Yes.

Q. And you were there to direct operations. Weren't you?

A. No, I was not.

Q. You were there to be an observer?

A. To assist in an investigation that had mushroomed into enormous proportions from the time I first assigned it to a single individual.

Q. "Mushroomed into enormous proportions". What do you mean by that?

A. When I first had a 'phone call from the police twenty-four hours earlier, on the morning of the 20th, I was told that a woman, who was yet unidentified, had been found in the park and there were two or three individuals at the stationhouse being questioned about participation. It was not -- I then called Miss Lederer. It was not until many many hours later --

Q. Miss Fairstein, could you address me? Could you speak to me? I'm asking you the question.

A. It was not until many many hours later that I learned that instead of going to talk to two or three individuals, Miss Lederer might be talking to as many as

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thirty individuals.

THE COURT: To clarify something.

Witnesses are speaking to the jury in fact. They're the ones that have to hear and understand what a witness is saying or you are saying or what I am saying.

MR. MOORE: I understand.

She's turning her face away and I can't hear.

THE COURT: She's looking at the jury, I think, which is not inappropriate.

Q. Now Miss Fairstein, you indicated that when you spoke to Kharey Wise he was in the squad room of the 24th Precinct. Am I not correct?

A. My first conversation, yes.

Q. And there were other people around. Were there not?

A. Yes.

Q. And he was at the desk. Is that correct?

A. He was at one of many desks in the room. Yes.

Q. And Kevin Richardson was at another desk. Am I correct?

A. Yes.

Q. And how far was his desk away from Kevin Richardson's desk?

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A. There were probably two or three desks separating.
The desks are two back to back --

Q. Miss Fairstein, I'm asking you how far was his
desk away from Kevin Richardson's desk.

MS. LEDERER: Objection to interrupting the
witness.

THE COURT: I'll let it. That's a simple
question, if she knows.

A. I can't tell you in feet.

Q. Approximately.

A. Between fifteen feet at closest to thirty feet.

Q. Between fifteen and thirty feet away.

And there came a time when you advised Kharey Wise
of his Miranda rights. Am I correct?

A. Yes, I did.

Q. At that time you were by the desk where he was.
Am I correct?

A. Standing right next to it.

Q. All right.

And there came a time when Detective Sheehan was
advising Kevin Richardson of his rights. Am I correct?

A. Yes.

Q. And at the time when you were advising Kharey Wise
of his rights, you were standing by Kharey Wise. Am I

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correct?

A. Yes.

Q. And Detective Sheehan was standing by Kevin Richardson. Am I correct?

A. I believe that had happened earlier, Sheehan and Richardson. I don't think they were going on at exactly the same moment.

Q. Well, when Sheehan was advising Kevin Richardson of his rights, he was about fifteen or thirty feet away from you. Is that correct?

A. No. He started advising Kevin of his rights, I believe, while I was talking to Mr. Richardson Senior. So we were probably back to back with each other.

Q. But when you were advising Kharey of his rights --

A. Yes?

Q. Sheehan was by Kevin Richardson. Wasn't he?

A. I don't know where Sheehan was when I was talking to Kharey.

Q. Well, was he next to you or was he by Kevin Richardson?

A. He may have been somewhere else. I don't recall him being next to me.

Q. But he was not next to you? That's what you recall?

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A. I was reading --

Q. I understand.

I'm asking you; was he next to you or was he not next to you?

A. I don't recall. I don't remember him being next to me.

Q. All right.

Now, you indicated that you read him these Miranda rights and he responded in the affirmative. Am I correct?

A. Yes.

Q. Did he say "yes" or did he shake his head or what gestures did he make?

A. He said words. I believe he said "yeah" more often than he said, "yes". But he said "yeah" or "yes".

Q. Now, there came a time when you told him --

THE COURT: Excuse me one second.

It's time to break, if it's convenient to your questioning.

MR. MOORE: Yes, your Honor.

THE COURT: We'll recess for lunch. 2:15 members of the jury.

Please don't discuss the case with anyone.

(Jury leaves courtroom.)

THE COURT: Do you have her notes?

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MR. MOORE: Yes.

THE WITNESS: I want to make sure I get them back.

MS. LEDERER: What I wanted to put on the record --

THE COURT: I know what you wanted.

2:15.

MS. LEDERER: Can I put it on the record?

THE COURT: No. We'll do that later.

2:15.

(Lunch recess.)

COURT OFFICER: Remain seated.

Jury coming through.

(Jury passes through courtroom.)

THE COURT: Mark this Court Exhibit 19.

(So marked.)

THE COURT: People ready?

MS. LEDERER: Yes.

THE COURT: Defendants ready?

MR. MOORE: Yes.

MR. DILLER: Yes.

THE COURT: Bring the witness in, please.

(Witness retakes the stand.)

COURT OFFICER: Bring the jury in, please.

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2 COURT OFFICER: Jury entering.

3 (Jury enters courtroom.)

4 COURT CLERK: The defendants, their
5 attorneys, the assistant district attorneys and
6 all sworn jurors are present.

7 Miss Fairstein, you're still under oath.

8 THE WITNESS: Thank you.

9 THE COURT: Good afternoon.

10 Okay, Mr. Moore.

11 Q. Miss Fairstein, good afternoon.

12 A. Good afternoon.

13 Q. Now Miss Fairstein, after you had been on the
14 stand this morning, did you go back to your office?

15 A. I did.

16 Q. And your office is across the street. Am I
17 correct?

18 A. Yes.

19 Q. And did you have a conversation with Miss Lederer?

20 A. No. Her office is across the street from my
21 office.

22 Q. I didn't ask you if her office is across the
23 street from yours. I asked you if you had a conversation
24 with her about this case?

25 A. The only conversation I had was a 'phone call to

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